

**Physical Violence Against Women and
Compensatory Jurisprudence with Special
Reference to Acid Attack Victims Working in
Sheroes Cafés of Uttar Pradesh**

Thesis

**SUBMITTED TO THE
BABASAHEB BHIMRAO AMBEDKAR UNIVERSITY
LUCKNOW**

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2019

DECLARATION

I, **Preeti Bhasker**, hereby declare that the research work embodied in this Ph.D. thesis entitled "**Physical Violence Against Women and Compensatory Jurisprudence with Special Reference to Acid Attack Victims Working in Sheroes Cafés of Uttar Pradesh**" has been done by me under the supervision of Prof. Preeti Misra, Head Department of Human Rights, School for Legal Studies Babasaheb Bhimrao Ambedkar University Lucknow, on the basis of original research material and information taken from other research works has been duly acknowledged.

I further declare that this is an original work and has not been previously submitted in part or full for any other degree or diploma in this or any other university.

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CERTIFICATE

This is to certify that the thesis titled “**Physical Violence Against Women and Compensatory Jurisprudence with Special Reference to Acid Attack Victims Working in Sheroes Cafés of Uttar Pradesh**” submitted by **Ms Preeti Bhasker** is an original research work and has not been previously submitted in part or full for the award of any other degree or diploma to this or any other University.

This thesis submitted to Babasaheb Bhimrao Ambedkar University, Lucknow satisfies all the requirements as stipulated in the Doctor of Philosophy (Ph.D.) Regulations, 1999 as amended in 2013 and it is fit for submission and evaluation for the award of the degree of Doctor of Philosophy of the University.

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Date: / /2019

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Place: Lucknow

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ABBREVIATIONS

AIR	:	All India Reporter
Art.	:	Article
ASF	:	Acid Survivors Foundation
CEDAW	:	Convention on the Elimination of all forms of Discrimination against Women
CSAAAW	:	Campaign and Struggle against Acid Attacks on Women
CVFC	:	Central Victim Compensation Fund Guidelines
DLSA	:	District Legal Services Authority
e.g.	:	exempli gratia (for example)
ECOSOC	:	Economic and Social Council.
Ed.	:	Editor, Edited or Edition
EU	:	European Union.
HC	:	High Court
i.e.	:	id est (that is)
Ibid	:	Ibidem (in the same place)
ICCPR	:	International Covenant on Civil and Political Rights.
ICESCR	:	International Covenant on Economic, Social and Cultural Rights
Id	:	Idem (in the same)
Infra	:	Cited below
NCRB	:	National Crime Records Bureau
NGO	:	Non- Governmental Organization
NLSA	:	National Legal Services Authority
No.	:	Number
p.	:	Page
Para	:	Paragraph
PIL	:	Public Interest Litigation

PWD	:	Persons with Disabilities(Equal Opportunity and Protection of the Rights) Act
RLMBSK	:	Rani Laxmi Bai Mahila Evam Bal Samman Kosh
SAA	:	Stop acid attacks
SC	:	Supreme Court
SCC	:	Supreme Court Cases
SLSA	:	State Legal Services Authority
Supra	:	Cited above
U.D.H.R.	:	Universal Declaration of Human Rights.
UNCEF	:	United Nations International Children Emergency Fund.
VCS	:	Victim Compensation Scheme
Vol.	:	Volume
w.e.f.	:	With effect from
WHO	:	World Health Organisation.
WP(C)	:	Writ Petition (Civil)
WP(CR)	:	Writ Petition (Criminal)

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Chapter - 1

INTRODUCTION

Violence against women is a technical term used to collectively refer to violent acts that are primarily or exclusively committed against women. The United Nations General Assembly defines “*violence against women*” as *any act of gender based violence that results in, or is likely to result in, **physical**, sexual or mental harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.*”¹

Violence against women is partly a result of gender relations that assumes men to be superior to women. Given the subordinate status of women, much of gender violence is considered normal and enjoys social acceptance also. Women are facing several types of violence since time immemorial such as sati, Johar, Devadasi, etc., however the recent trend of violence has changed to rape, sexual harassment, domestic violence, dowry, etc. Further, Gender violence is linked to **other crimes against women** such as child maltreatment and gender selective abortion, infanticide, malnourishment and no proper attention unlike the male members of the family. Honor killings and **acid attacks** are also prevalent kind of gender violence.

Acid Attack is more painful and severe for the victim as it involves physical, psychological abuse, the threat of such abuse, inflicted against a woman by a person who has been rejected by her for marriage, love or sex etc. “Acid” attacks as per text involves, Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or **causes grievous hurt by throwing acid** on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt.²

¹United Nations declaration, 1993 available at: <http://www.un.org> (visited on July 13, 2018)

²Sec 326 A Criminal Law Amendment Act, 2013 (Act No.14 of 2013)

Acid violence is prevalent mostly in Asian countries because of three related factors:

- A. Gender inequality and discrimination,
- B. The easy availability of acid, and
- C. Impunity for acid attack perpetrators.

Acid violence is gender-based violence that reflects and perpetuates the inequality of women in society and as such is prohibited by international law. Acid attacks occur throughout the world, including in the United States. However, India has some of the highest recorded incidence of acid violence. A research of **Chhanv Foundation** found many reported cases of acid violence from 2013 (203) to 2017 (283)³. Till 2014, no official statistics of acid attacks were available with the government. In the year 2015, for the first time data regarding acid attack was released by NCRB and there are likely many more deadly incidents than these figures reveal.

According to the National crime Records Bureau, a total of 206 acid attacks and attempts to acid attack were reported in the country that claimed a total of 225 victims in the year 2016.⁴ The numbers went down from the previous years, i. e, 2014 and 2015 when there were 255 and 268 reported incidents of acid attacks and attempts to acid attack claiming 277 and 295 victims respectively. Out of the 206 incidents reported in 2016, the second highest numbers of cases were reported from Uttar Pradesh, amounting to a total number of 51 cases claiming 52 victims. West Bengal registered the highest number of acid attacks in the year 2016 with 54 reported incidents claiming 60 victims. In the year 2015, the number of reported incidents of acid attacks and attempts of acid attack amount to 66, claiming 72 victims in Uttar Pradesh. In 2014, the numbers in Uttar Pradesh for acid attack and attempts to acid attack were 55 claiming 56 victims. West Bengal came close to second in both these years. Uttar Pradesh has steadily been ranked among the states with the highest number of acid attack for the three years, 2014-2016⁵. Perpetrators of acid attacks intend to disfigure and cause extreme **physical**

³Available at <https://www.chhanv.org> accessed on (visited on July 13, 2018)

⁴National Crime Records Bureau (2017), Crime in India Report, Ministry of Home Affairs available at: ncrb.gov.in (visited on June 11, 2019)

⁵Available at www.aalilegal.org (visited on July 13, 2018)

and mental suffering to victims. Perpetrators usually attack victims with hydrochloric, sulfuric, or nitric acid, which quickly burns through flesh and bone. It has been observed that Acid attacks occur in private and public places. Attackers throw acid through open home windows at night or from moving motorcycles in markets in broad daylight. Acid violence has devastating health repercussions for the victims. Short-term effects include immense physical pain, while long-term effects can include blindness, loss of facial features, and severe mental suffering. As a result of their **physical** deformities and accompanying disabilities, acid violence survivors are often marginalized in society. The psychological repercussions are severe and manifold. Living with injuries that often evoke stunned and even hostile reactions from people leads many survivors to depression and, in some cases, suicide. Memories of the assault itself can also lead to stress or mental illness. In the case of acid attack it is not uncommon for the family to loan money, mortgage or sell assets or property or take up additional work to pay medical bills or bear the expenses of the lawyers.

The emergence of *compensatory jurisprudence* in the light of human rights philosophy is a positive signal indicating that the judiciary has undertaken the task of protecting the right to life and personal liberty of all, even though in absence of any express constitutional provision or judicial precedents.⁶ The idea behind providing compensation is legal as well as embodies of basic principal of restorative justice. Recently *Compensatory Jurisprudence* became an inseparable part of criminal justice system.

Principally the perpetrators of any offence should get the punishment for the offence committed however this universal principal goes into vain in case of Acid attack because of loose implementation mechanism and lethargic trial procedure. In addition to this these victims are not given adequate compensation to meet with their medical expenses and there is no proper mechanism to monitor or regulate the sale of acid in the market. The recent Criminal Amendment Act 2013 has done a lot for the prevention rape, acid attack, etc. but still is this not sufficient to curb the menace from the root itself.

⁶Dr. Sunita Arya, "Compensatory Judicial Jurisprudence Through Constitutional and Legal Provisions", 2 *Altius Shodh Journal of Management and Commerce*, 377-381(2015).

The present thesis identifies forms and magnitudes of violence, evolution and development of compensatory jurisprudence, causes and consequences of acid violence and suggests practical solutions to address them. With the aim of contributing to efforts to design effective laws and policies to combat acid violence, this thesis through empirical study in **Sheroos Cafés (UP)** provides a detailed appraisal of acid attack perpetrators, motives, victims, and the impact of attacks on victims.

1.1. Review of Literature

A research can contribute something to the existing literature only if that research has been carried out after reviewing the existing literature in the field. Keeping in view this general principle and to make the present research more focused the already available literature on acid attacks and gender violence. While reviewing the literature the researcher made an attempt to analyze the contents and observations of the various works done by the authors. A very few numbers of books, research papers, cases are mentioned below:

The violence of acid attack is not just a human rights or legal question; but is a medical emergency as well. **Rabindra Nath Karmakar** authored book *‘Forensic Medicine and Toxicology: Theory, Oral & Practical’* (2006)⁷ is a book written prior to the *Criminal Law (Amendment) Act* 2013. Along with the medical factors; this book beautifully narrates India’s legal stand on acid attack prior to 2013. The author narrates the medico legal importance of vitriolage in three groups. (a) Under the first heading the author mentions that permanent disfigurement of head and face constitutes a grievous hurt. (b) Secondly permanent loss of sight of either of the eyes also constitutes grievous hurt. (c) Under the third category permanent impairment of function of any member or joint also constitutes an offence of grievous hurt. Further this book also highlights the motives behind or the factors that contributes to the brutal violence of acid throwing as hatred, jealousy, rivalry, enmity, revenge, destructive use during riots etc. Being from the medical background, the author exhaustively categorises the effects of vitriolage as (a) disfiguration of head and face/whole body. (b)

⁷Rabindra Nath Kamakar, (2006), *Forensic Medicine and Toxicology: Theory, Oral & Practical*, Academic Publishers, 1st. ed.

contractures, scar formation, restriction of the movement of joints, (c) destroying of garment, (d) permanent loss of sight (e) evidence of splashing or spilling or pouring of acid/other things on the body (f) extensive involvement may even lead to death. The author also mentions about the treatment or first aid that should be provided to the victim immediately after the attack. The author mentions the need of washing of the burn parts with water and application of antiseptic ointments to prevent secondary infections. The need to take special care of eyes by washing with plain water and application of liquid paraffin is also duly mentioned in this book. While the medical perspectives of such attack is briefly but exhaustively discussed by the author; the legal portion of this book stands outdated in the light of the recent amendment.

In “**Textbook of Forensic Medicine & Toxicology: Principles & Practice**,”⁸ the meaning of Vitriolage has been given as throwing of oil of vitriol (concentrated sulphuric acid) on the body of a person with the intention of injuring or disfiguring him out of jealousy or revenge. The method was commonly practiced by industrial workers in Glassglow before the Offences against the Persons Act, 1861 was passed in England. The usual target is the face of the victim with the idea of disfiguring him or her. This may lead to destruction of eyes with permanent loss of vision. If the victim survives any of the outcomes such as loss of eye sight, permanent disfigurement etc., the act of vitriolage amounts to the causation of grievous hurt. But when the area of involvement is extensive, death may occur wherein the offence will amount to homicide.

The “**Concise Textbook of Forensic Medicine & Toxicology**,”⁹ describes ‘vitriolage’ as acid throwing and mention that it commonly used when a person wants to disfigure the face of another person. A person who is jilted in love may throw acid on the women to teach her a lesson. According to this book the usual way of throwing acid by collecting it in a bulb and is thrown on the person while moving on a cycle or a motorcycle. It affects corneal destruction or even blindness may also occur. When acid is thrown, the victim suffers pain and

⁸Krishan Vij, Textbook of Forensic Medicine & Toxicology: Principles & Practice, (Elsevier Publishers, New Delhi, 2011).

⁹R.K. Sharma, Concise Textbook of Forensic Medicine & Toxicology, (Elsevier Publishers, New Delhi, 2008).

permanent disfigurement. It suggests for immediate first aid by pouring water on the affected area till pain persist of acid is washed off.

According to the book named “**Forensic Medicine and Toxicology**”,¹⁰ corrosive poisons are those substances which have a corroding or destructive effect on the human body. Sulfuric acid is such a corrosive poison. The throwing of concentrated sulfuric acid on the face of a person with the intention to produce damage, disfiguration or death is known as vitriolage. Chemical burns occur immediately on the areas wherever the acid comes in contact. Discussing about its medico-legal importance it states that vitriolage causes severe effects which includes permanent disfiguration. The reasons of such attacks are jealousy or enmity, facilitate robbery etc.

The book “**Socio-legal status of women in India**”,¹¹ discusses the socio-legal status of women in India. The book discusses the various reasons, such as physical, economic, psychological etc., why women are being treated as inferior to men. It states that physical strength and alleged dominance of men has been an important instrument of controlling women's freedom of action. It discusses the western philosopher's views (Plato, Aristotle, Rousseau, Hobbes and Locke, Bentham) on the status of women. The book mentions 19th century is the beginning of the social reform era for the women. Further it discusses the various reformer movements, various laws such as Hindu laws, and also Constitutional Provisions Which helped women to get better status in society.

The book “**Violence against Women in Asian Societies: Gender Inequality and Technologies of Violence**”, edited by Linda Rae Bennet and Lenore Manderson, published in 2013, addresses the structural and interpersonal violence to which women are subject, both under conditions of conflict and disruption, and where civil society is relatively ordered. This book explores the distinctive nature of acid attacks specifically in Bangladesh, and concludes by highlighting the commonality and differences of the motives of the attacks commonly and differences of the motives of the attacks with other kinds of sexual and physical attacks against women. The book discusses that ‘Acid Throwing’ is a

¹⁰Nageshkumar G. Rao, *Forensic Medicine and Toxicology*, (Jaypee Brothers Medical Publishers, New Delhi, 2006).

¹¹Rama Mehta, *Socio-Legal Status of Women in India*, (Mittal Publications, Delhi, 1987).

form of violence primarily directed against women. The form of violence is relatively recent. Acid have become a weapon of revenge for refusal of any proposal of marriage or demand for dowry, it is also used against women in context of political clashes, land enmity and family feud. Naripokkho Bangladesh, a nongovernmental organization, prepared log of acid attacks. The increase in number of acid attacks (one attack is reported every 3 days) is related to the easy availability of acid.¹²

The book named, “**Encyclopedia of Domestic Violence and Abuse**”, edited by Laura L. Finley, and published in 2013 discusses regarding the domestic abuse and cover the topics relevant to human rights issues that disproportionately impact women. The book also discusses the personal stories of survivors and addresses abuse as a global issue by covering topics such as acid attacks and female genital mutilation. According to this book the acid throwing is a worldwide phenomenon that is not confined to particular race, religion or geographical location. Acid throwing is deliberate use of different types of acid to attack another human being by throwing or pouring with intent to seriously maim, disfigure, torture or to kill the victim. These countries happen in many countries but are particularly perpetrated by men towards women as a result of shame, loss of face, or perceived dishonor. The book discusses about the reasons and effects of acid attacks.¹³

The book, “**Women's Global Health and Human Rights**”¹⁴, serves as an overview of the challenges faced by women in different regions of the world. This book discusses the similarities and difference in health rights challenges that are faced by women globally. Few practices and success stories are also discussed. Major topics like gender bases terrorism and violence, cultural practices, health problems, progress and challenges are discussed. The book discusses one of the harmful practice against girls and women is acid throwing which lead to severe

¹²Available at http://books.google.co.in/books?id=Af_cAAAAQBAJ&pg=PT110&dq=acid+attacks&hl=en&sa=X&ei=yzVVU6HVBsWKQfA94GwAQ&ved=0CDoQ6AEwAw#v=onepage&q=acid%20attacks&f=false, (visited on January 21, 2013).

¹³Available at: <http://books.google.co.in/books?id=AWjAQAAQBAJ&pg=PA1&dq=acid+attacks&hl=en&sa=X&ei=yzVVU6HVBsWKrQfA94GwAQ&ved=0CDUQ6AEwAg#v=onepage&q=acid%20attacks&f=false>, (visited on January 25, 2013)

¹⁴Padmini Murthy, Clyde Lanford Smith, *Women's Global Health and Human Rights*, (Jones and Bartlett Publishers, New York, 2010).

disfigurement due to second and third degree facial burns and even blindness in some instances. The most commonly used acid is sulphuric acid as it is easily available, being found in car batteries.

The book “**Women and Urban Crime**”,¹⁵ deals with the magnitude of crimes against women in the developed and the developing World context. Through two empirical case studies (Kolkatta and Toronto) the spatial context of crime has been explained, especially how socio-economic parameters and the environment can play a role to promote crime and disorder in a city. Crime remedy is through good legislation. NGO's working on women's issues, the government while making policies and the media need to find ways to strengthen legislation to project the vulnerable women.

For analyzing the historical background of women's socio-economic conditions, the researcher studied, “**Women: Conflict for Basic Rights**” Volume I edited by Shyma Kriplani. The social condition of women in our society had been an acute problem since several centuries. They were not accorded equal status with men; rather their status was quite low in our society. For centuries since the days of Ramayana and Mahabharata they were very often confined to the four walls of the house, looked after domestic duties including their children. The book also enlightened us about some women who did come into prominent in Hindu civilization as well as Muslim era. During the British Raj, the social condition of women was molded towards their better status, mainly on account of social reformers who worked, with much interest, regarding the welfare of widow women, infanticide as well against dowry system. Raja Rammohan Roy did much remarkable social work in this direction.¹⁶

In another book of Sumit Sarkar and Tanika Sarkar, (eds.) “**Women and social reform in modern India: A Reader**”,¹⁷ the researcher found valuable knowledge. This volume, comprised of two parts, is a collection of twenty-three important scholarly articles in Part I complemented by five primary source documents from the 19th and early 20th centuries in Part II. The selection of these

¹⁵Doel Mukherjee, *Women and Urban Crimes*, (Kalpaz Publications, Delhi, 2005).

¹⁶Shyama Kriplani (ed.), *women: Conflict for Basic Rights*, (RBSA Publishers, Jaipur, 2005)

¹⁷Sumit sarkar and Tanika Sarkar (eds.), *Women and Social Reform In Modern India: A reader*, (Indiana University Press, Bloomington, 2008)

articles from previously published work makes an important contribution to a wide audience. The theme that unites the articles is that of social reforms aimed at changing the status of women in India in the 20th century which has had a profound impact on Indian society and the nationalist movement.

“**Every Molecule tells a story**”¹⁸, Unveiling the structures of poisonous “natural” substances and beneficial man-made molecules, this book discusses why and how molecules matter. It discusses about various acids and alkalis. This book discusses about sulfuric acid and provides that Sulfuric acid is the cheapest acid on the market and is very versatile chemical. Discussing about the effects it says, Concentrated Sulfuric acid causes severe damage to skin and is the basis of vitriolage, where acid is thrown on the face of the (usually) female victims. These attacks take place, notably in parts of South Asia where the Acid Survivors Foundation supports victims.

P.V. Gujrai in his “**Forensic Medicines**”¹⁹ discusses about corrosive poisons. He says, accidental surface burns from the breaking or bursting of containers of corrosive are far more common than their use for suicidal or homicidal purposes. Corrosive may be deliberately thrown on the face or body of a person (vitriolage) to cause disfigurement or blindness or for the purpose of robbery etc. It divides corrosive into five groups: Acids, Alkalis, Metallic Salts, Halogens and gases. Sulfuric acid is known as 'Oil of Vitriol'. It is colorless, odorless, viscid liquid used in industries, agriculture and in laboratories. The splashing or throwing of strong acid on the body and face causes severe burns and sometimes blindness. The clothes are stained brown. The effects of nitric acid are almost similar that of sulfuric acid.

Selwyn Stanley has compiled various articles of social problems in his book named “**Social Problems in India**”.²⁰ In this book, in an Article “Status of Indian Women”, the authors G. Srividhayaveni and G. Sekar writes that our society is divided not only on the basis of religion, race, caste etc but also on the basis of gender. The suppression is rooted in the very fabric of the India society-in

¹⁸Simon Cotton, Every Molecule Tells a Story, (CRC Press, New York, 2012)

¹⁹P.V. Guharaj, Forensic Medicine, (M.R. Chandran, Orient Longman Pvt Ltd., Hyderabad, 2003).

²⁰Selwyn Stanley, Social Problems in India: Perspectives for Intervention, (Allied Publishers Pvt Ltd., New Delhi, 2004)

traditions, in religions, doctrines and practices, within the educational and legal systems and within the family. Women face violence due to such reasons. She undergoes physical, sexual and psychological abuse. The women are treated as sex objects. They write that women are not weak but are oppressed and powerless and helpless due to the denial of the opportunity and traditionally labeled as dependents. In another Article, "Women and Girl Children: Atrocities and Prevention" S. Pandi writes that women are suffering several of violence. It discusses about the problem against women from childhood to her maturity. It suggests that education and economic independence for women should be given the first priority in the policies designed for the progress of women.

In **"Transnationalism Reversed: Women organizing Against Gendered Violence in Bangladesh"**,²¹ Elora Halim Chowdhury explores the complicated terrain of women's transnational antiviolenace organizing by focusing on the work done in Bangladesh around acid attacks—and the ways in which the state, international agencies, local expatriates, US media, Bangladeshi immigrants in the United States, survivor-activists, and local women's organizations engage the pragmatics and the transnational rhetoric of empowerment, rescue, and rehabilitation. Grounded in careful ethnographic work, oral history, and theoretical and filmic analysis, *Transnationalism Reversed* makes a significant contribution to conversations around gendered violence, transnational feminist praxis, and the politics of organizing-particularly around NGOs- in the global South. Acid attacks against women and girls have captured the attention of the global media, with several high-profile reports ranging from the BBC to The Oprah Winfrey Show. In Bangladesh, reasons for the attacks include women's rejection of sexual advances from men, refusal of marriage proposals, family or land disputes, and unmet dowry demands. The consequences are multiple: permanent marks on the body, disfiguration, and potential blindness.

"Beautiful: A beautiful girl, an evil man. One inspiring true story of courage"²², is the moving true story of how one young woman 'Katie' had her mind, body and spirit cruelly snatched from her and how she inspired millions

²¹Elora Halim Chowdhury, *Transnationalism Reversed, Women organizing Against Gendered Violence in Bangladesh*, (State University of New York Press, New York, 2011).

²²Katie Piper, "Beautiful: A beautiful girl. An evil man", *One inspiring true story of Courage*, (Ebury Publishers, UK, 2011).

with her fight to get them back. When Katie Piper was 24, and her life was near perfect, she was well on her way to fulfilling her dream of becoming a model. But then she met Daniel Lynch on Face-book and her world quickly turned into a nightmare. After being held captive and brutally raped by her new boyfriend, Katie was subjected to a vicious acid attack. This is the real story of a victim of acid attack who, within seconds, lost her everything.

“It was like Burning in Hell: A Comparative Exploration of Acid Attack Violence”,²³ is a thesis submitted by Jales Welsh, to the faculty of the University of North Carolina at Chapel Hill in partial fulfillment of the requirements for the degree of Master of Arts in the Department Anthropology. This thesis explores the issue of acid attack violence: a sadistic and cruel form of violence that involves the intentional throwing of corrosive acid onto another person with the intention of disfiguration. Acid attack violence is an act of intimate terrorism that involves the premeditated throwing of sulphuric, nitric, or hydrochloric acid onto another person. Acid attack violence occurs in many countries but is particularly prevalent in: Bangladesh, Pakistan, India, and Cambodia. Global Statistics suggest that attacks are predominantly perpetrated by men as a result of shame and loss of face or loss of honour. Developing an understanding of the motivations and etiology of this form of violence is the focus of this thesis as much of the current discourses and interventions are focused on the victims of these crimes, and do not address or investigate underlying root causes. Drawing on Heise and colleagues’ adapted socio-ecological model, this thesis explore factors that contribute to the acid attack violence and refer to high-profile cases in Cambodia, Bangladesh and India.

Women and Crime²⁴ by Dr. M. U. Quareshi (2007), this book covers all relevant aspects of crime against women in our society, concept and perception of violence, basic issues of violence, International concern regarding crime against women etc., **Countering Gender Violence Initiatives Towards Collective**

²³"It was like burning in hell: A Comparative Exploration of Acid Attack Violence", A thesis submitted to the faculty of the University of North Carolina, available at <https://cdr.lib.unc.edu/indexablecontent/uuid:e472922a-b4a3-47a4-82e5-661dd7a966c5>. (visited on July 21, 2014).

²⁴Dr. M. U. Quareshi ‘Women and Crime’(SSB Publishers & Distributors Pvt. Ltd. New Delhi, 2007)

Action In Rajasthan²⁵ by Kanchan Mathur (2004), the primary focus of this book is linking the theoretical complexity of violence to strategies for countering gender violence, **Women Survivors of Violence**²⁶ by Anjali Dave (2015), this book reviews the impact of the special cell's work on creating access to socio-legal mechanisms to stop violence against women today.

The Code of Criminal Procedure²⁷ by Ratanlal & Dhirajlal, (2014), researcher has studied the amendment in Section 154(a) through the **Criminal Law (Amendment) Act, 2013**; and the specific provision for compensation to victim was inserted in Criminal Procedure Code of 1973, as section **357A** in pursuance of the recommendation of the Law Commission in its Forty-first Report (1969), **Victims of Crime**²⁸ by Robert C. Davis, Arthur J. Lurigio, Susan Herman (2007), in the book researcher has studied section I which includes crime against women and its impact. The purpose of this section is to provide an overview of the key issues pertaining to victims of violence.

Criminal Law Cases and Materials²⁹ by Prof. K.D. Gaur (2015), Researcher has studied important topics from this book relating to fundamentals of crime and criminal law, principles of criminal liability, mens rea etc., and judgments of various courts in India and abroad. Recent amendments of far reaching significance made in section 375 and insertion of a number of new offences vide the Criminal Law (Amendment) Act (13 of 2013), such as sections 326A, 326B, 354A, 354B, 354C, 354D, 370A, 376A, 376B, 376C, 376D and 376E have been included. Exhaustive and critical evaluation of new offences, such as causing grievous hurt by acid attack, sexual harassment, voyeurism, stalking, gang rape etc.

“Burning Injustice: A Rights Advocacy Manual for Lawyers, Activists and Survivors on Acid Violence in India”³⁰, Socio Legal Information Centre,

²⁵Kanchan Mathur, ‘Countering Gender Violence Initiatives Towards Collective Action in Rajasthan’ (Sage Publications, New Delhi, 2004)

²⁶Anjali Dave ‘Women Survivors of Violence’ by (Orient Blackswan Private Limited, 2015)

²⁷Ratanlal & Dhirajlal, ‘The Code of Criminal Procedure’ (LexisNexis, 2014)

²⁸Robert C. Davis, Arthur J. Lurigio, Susan Herman ‘Victims of Crime’ (Sage Publications, 2007)

²⁹Prof. K.D. Gaur ‘Criminal Law Cases and Materials’(LexisNexis, 2015)

³⁰Edited by Kerry McBroom and Salina Wilson Copy-editing Andrew Kirtley and Gilli Paveley “Burning Injustice: A Rights Advocacy Manual for Lawyers, Activists and Survivors on Acid Violence in India” (Socio Legal Information Centre, Published by Human Rights Law Network (HRLN) August 2014).

August 2014 Edited by Kerry McBroom and Salina Wilson Copy-editing Andrew Kirtley and Gilli Paveley. Through this book HRLN lawyers and social activists in state offices who have tirelessly advocated for acid attack survivors in West Bengal, Assam, Bihar, Delhi, Uttar Pradesh, and Maharashtra has shared so much information about acid attack survivors. This is the only book which is specifically related to the Acid Attack survivors, victims and their families for their undying spirit and Courage to fight, has been studied by researcher.

An Article “**Vitriolage: The curse of Human Origin**”,³¹ the growing problem of Acid Attacks has been discussed. The article stress over the heinous crime of vitriolage with its various impacts over human society and the current legal scenario in India. The overwhelming majority of the victims are women, and many of them are in the prime of life. While these attacks can be attributed to various factors such as the social weakness of women in a male-dominated society, the situation is exacerbated by the general neglect of the lawmakers. In almost all cases of vitriolage, concentrated acid is thrown at the face of the victim. Acid, being a highly corrosive substance, causes burning of the facial tissue in the affected areas. About 80% of all acid attack victims in the Indian subcontinent are women. Considering the impact and increasing incidence, the crime appears more atrocious than at first glance. It is a premeditated crime, one which requires tremendous ill-will on the part of the perpetrator, and therefore it should be punished severely. The Articles suggests that investigation of the cases of acid attacks should be carefully done by police, proper medical facilities to the victims should be provided, production and distribution of acids should be controlled, there should be speedy trial in cases of acid attacks and punishment should be hard. It states that an acid attack is more serious than rape because it destroys both physical and mental health. Hence in our view of criminal jurisprudence, acid attacks would appear to be a worse offence than rape and should carry a greater penalty.

³¹Pawan Mittal, S.K. Dhatarwal, “Vitriolage: The Curse of Human Origin”, Medical Science: The International Weekly Journal for Medicine, Vol. 6 No. 21, 61-64 (Discovery Publication, Tamil Nadu, March 19, 2014).

“Acid attacks: A scar on. India”,³² this article discusses stories of victims of acid attacks. Shabanna from city of Kolkata was in love with a boy and wanted to marry him. She had known him for four years, and one Saturday evening in June 2013, she was invited to meet his family and seek permission for their marriage. Soon after Sabana arrived at her boyfriend’s house, his family started assaulting her she was force-fed one bottle of acid resulting in severe internal injuries. Since then she has been unable to eat anything solid, and survives on a liquid diet. Her assailants, meanwhile, remain free, are not yet facing criminal charges. Other, Sonali Mukheriee, living in Dhanbad in eastern India, had one evening objected to the pranks of some neighbourhood boys. Under normal circumstances, it should have ended just as a street argument. But then the boys - their pride hurt at being challenged by a diminutive girl - chose to take the acid route. They threw acid at Sonali through the window while she slept in the night. According to the article, every few days, there are reports of acids being thrown at some girl in some part of this vast country. Two sisters had acid thrown on them by a landlord for their inability to pay rent on time. Another girl was attacked similarly by her teacher whose amorous overtures she had rejected. One person who has fought relentlessly for stricter laws and better compensation is Laxmi from New Delhi who is herself a victim of acid attack. The Article further discusses about the report of Law Commission on acid attacks. The article mentions that mere writing a law will not change things on the ground, all agencies will have to come together to implement it in its true spirit.

In an Article, **“Acid attacks and the rhetoric of love”**,³³ the author Sudha Arora discusses about the crime of acid attacks that it is a heinous crime. The victims of acid attack go through a life sentence that forces them to shun society and live in a constant state of fear. She has discussed the case of Preeti Rathi, Victim of Acid attack who passed away on June 2, 2013, after battling for her life for a month. She states that Violence against women is often masked in rhetoric of love. Men justify their act of disfiguring a woman that often springs from her refusal to reciprocate their love. One of the reasons behind the rise of such incidents could be that males are not conditioned to hearing 'No' from a woman.

³²Kamal Kumar, "Acid Attacks: A Scar on India", available at: <http://www.aljazeera.com/indepth/features/2013/09/acid-attacks-a-scar-india-2013927165429393354.html>.(visited on June 17, 2018).

³³ Sudha Arora, "Acid Attacks and the rhetoric of love", the Tribune, Chandigarh 9 (June 5, 2013).

The violence is the revenge caused by the intolerance of being rejected. She describes the crime of acid attacks as a gender-based violence. She writes, we should not forget that in India, the visual media, cinema in particular influences the attitudes and mindset of the general public to a great extent. To reduce the occurrences of such crimes, a sizeable Section of society is demanding imposition of strict laws. However, we need to give it a serious thought that if our political, cultural and economic system is encouraging misogyny at the social level than mere legal system cannot help much in getting rid of such evil tendencies. Acid is one of the cheapest, most easily available and yet deadly weapons to take someone's life. A bottle costs only thirty rupees, and can be lethal. Victims who survive an acid attack go through severe mental trauma and feelings of terror and inadequacy for the rest of their lives. The immediate need is to put a restriction on the open sale of acid. Secondly, an attack like this which inflicts severe physical, mental and societal trauma on an innocent victim should be treated on par with attempted murder.

“Acid attacks and increasing violence in India”,³⁴ this article discusses the case of Vidya, a 21 years old girl from Adambakkan in Chennai who died at a governmental hospital in Chennai due to an acid attack on her. She was the second victim in recent times. According to the report the atrocious living conditions, the patriarchal male-dominated society which has failed to provide appropriate treatment to her that was responsible for death of the victim. Health sector is one of the neglected sectors in the government. The article mentions that according to Thomson Reuters report, India is ranked the fourth worst place for women to live after Afghanistan, Somalia, and Pakistan. Dowry death, female foeticide, rape, slavery, human trafficking etc. were the reason for the fourth place. India has failed in eradicating the vestiges of feudalism and patriarchy that only see women as an object for sex or procreation. This article suggests that the perpetrators of such heinous crimes must be punished and the victims should be given compensation and proper treatment. Implementations of legislation are like Verma Committee reports are definitely a good step.

³⁴V.N. Pasumpon, “Acid attacks and increasing Violence against Women”, available at <http://socialism.in/index.php/acid-attacks-increasing-violence-against-women/>, (visited on July 7, 2018).

“Women in India bear brunt of widening wealth gap”,³⁵ states that the fundamental emancipation of women lies in the achievement of classless society. It discusses cases of acid attacks the crime of acid attack against women in India is becoming more and more common. An acid attack speaks volumes of injustice and inequality meted out against women in India. Such cruelty depicts the criminal mind at work, which not only wants the victim suffer the grievous possible but also forces her not to enjoy her life in future. The author states that in a system where the prime motive is profit, the judicial parameters and all the facilities awarded in the constitution are guided by and within the greedy capitalist system which looks on women as second class citizens. Further, it states that the list of crimes against women is an unending saga, and is a stark reminder of blood-chilling realities of this unequal, class dominated system. The prime reason for such attacks on women is the failure of the capitalist system to develop society.

“A corrosive love: Living with the scars”,³⁶ is an article which refers to the wide problem of acid attacks which states that acid attacks are a rampant gender crime in India. It discusses the cases of Shabnam, Laxmi, Aarti and Archana who suffered the acid attacks. It mentions the statement of Laxmi, “Often, victims have to fight not just the pain and stares but also comments that blame the victim, the insinuation that 'she' brought it on 'herself'”. It further mentions that on average we hear of three cases of acid attacks every week. The amendment has been made in Indian Penal Code, making acid attack an offence punishable with 10 years to life imprisonment and a fine that could go up to rupees 10 lakh. Even the Supreme Court has also directed the States and Union Territories to frame rules to regulate the sale of acids and other corrosive substances, necessary rules under the Poison Act, 1919 should be made, making acid attack a non-bailable offence. Both Pakistan and Bangladesh have introduced specific laws relating to acid attacks. Further it states that Acid attacks are carried out because of discriminatory attitudes in society towards women and girls. These underlying reasons need to be addressed if acid violence and indeed other forms

³⁵Nirmala Shetty, “women in India bear burnt of widening wealth gap” available at: <http://socialism.in/index.php/women-in-india-bear-burnt-of-widening-wealth-gap/>, (visited on July 7, 2018)

³⁶Poulomi Banerjee, "A Corrosive Love: Living with the Scars, Hindustan Times, Chandigarh, 12 (January 19, 2014).

of violence against women and girls are to be challenged and eradicated. There should be more stringent laws on acid attacks and government should give jobs to victims as the victims are suffering for no faults. Sonali Mukherjee, competed and won on the Amitabh Bachan hosted Kaun Banega Crorepati, demanded that there should be an acid attack victim to be nominated in Parliament and state assemblies, because only another victim can understand the problem of a victim.

The Article, “**Not draconian but much-needed law**”³⁷, states that in the new rape law, Sexual Offences against Women: The Criminal Law (Amendment) 2013, important sections dealing with acid attacks, stalking and voyeurism and trafficking have been included. However, even a year later, there is little awareness about this benchmark law. Worldwide it is accepted that elimination of violence and discrimination against women requires a comprehensive sustained and coordinated effort because such violence arises the convergence of specific factors within the context of power inequalities at the individual, group and national level. “Justice,” said the great philosopher, Aristotle, “consists of treating equals, equally and unequals unequally but, in proportion to their relevant differences”. The Article further discusses the various form of violence against women such as acid attacks, Voyeurism, trafficking, rape, custodial rape, gang-rape etc. It describes acid attacks as one of the most frequently occurring incidents of heinous crimes against women. It is now a nationwide phenomenon with very painful-instances being reported. The Amendment Act, 2013 has inserted Section ‘A’ & ‘B’ to Section 326. There is now no difference between temporary disfigurement and permanent disfigurement. Section 326 A provides for imprisonment for not less than 10 years, which can go up even to life imprisonment. Importantly, it also provides for a fine that shall meet the medical expenses of the victim. Mentioning Justice Verma's Contribution the article states that Justice JS Verma will for long is remembered for his contribution to India's judicial process, even more so for the recommendations that were made by the Committee headed by him.

³⁷Reicha Tanwar, “No draconian but much-needed law”, The Tribune, Chandigarh, 11 (March 14, 2014).

The paper named “**Vitriolage & India — The Modern Weapon of Revenge**”,³⁸ discuss the problem of acid attacks. Acid Attack have emerged as the contemporary form of violence which is general targeted against women with the intention of deforming her face and body and even to kill her. Interesting number of acid attacks over the years has created an alarming situation which needs to be addressed. This paper explains the various physical, psychological and socio-economic consequences which ensue upon the victims of the acid attack and make their life worse than death. Furthermore, the paper delineates the various legal provisions to combat the means of acid attack and how the recent amendments have changed the Indian legal system with respect to vitriolage. Role of Police in investigation and importance of such investigation has also discussed. Also the role of Judiciary is discussed. Rejection of love or marriage proposals, refusal to pay dowry, rejection of sexual advances are some of the motivation behind the commission of such heinous offence. Case of Laxmi, acid attack victim, has been discussed in detail. A study of laws of other countries in relation to acid attacks has also been made. The author has given certain suggestions that might prove helpful in curtailing the perils of such attack.

In the paper, “**An unusual case of vitriolage**”³⁹ vitriolage has been described as rising means of taking out jealousy or malice or revenge. In this paper an unusual case of throwing of acid on the female genitalia has been reported. The paper states that sulfuric acid (oil of vitriol) is the one most commonly employed acid for this purpose and hence it is called vitriolage. Nitric and carbonic acid are sometimes used. Case report of a female is 28 years with rural background came who suffered acid burns, not over her face where commonly expected but on her vulval region has been discussed. The paper gave some suggestive measures to eradicate the problem of acid attack. It suggests strict laws against acid attack and to constitute a committee that should look into measures the treatment, after care & rehabilitation of the victims of acid attacks,

³⁸Parvathi Mellon, Sanjay Vashishtha, *Vitriolage & India - The Modern Weapon of Revenge*, (International Journal of Humanities and Social Science Invention, Vol. 2, Issue 10, 1-9, October, 2013).

³⁹ Amandeep Kaur, Harjesus S. Sandhu, K.K. Aggarwal, Dr. S.S. Oberoi, *An unusual case of Vitriolage*, (Journal of Panjab Academy of Forensic Medicine And Toxicology, Panjab, 7(2), 76-79, 2007).

as the medical treatment & surgery costs in the aftermath of such an attack are extremely high.

The research paper, “**Acid Violence: Uniting in the Uniting for the Solution**”⁴⁰ provides the position in relation to acid violence in the United Kingdom, Sri Lanka, India and Cambodia in search for an adequate national response on the deterring mechanism. It defines acid violence as the deliberate use of acid to attack another human being. The paper mentions that in UK, although there is no specific legislation that deals with acid attacks, the current legislation appears to have stringent consequences for perpetrators who commit the offence. The statistical data suggests there is an increase of assaults by a corrosive substance and there is also a growing threat of this form of violence within the domestic violence sector. This begs the question; can the UK adequately protect potential victims, rehabilitate and empower existing survivors and prevent the crime from growing? In order to explore these issues, this report explores the position of acid violence on an international scale, namely in Sri Lanka, Cambodia and India. The focus of this report is to use these international examples to determine whether the UK requires specific legislation to combat acid violence as a crime or if there is an alternate solution. In Sri Lanka acid violence has not surfaced as a nationally recognized issue, the situation is akin to the UK. India has an uprising problem of acid attacks and with the vast population; this is not a surprising fact. Story of Sonali, acid attack victim, has been mentioned who won the India show “Kaun Banega crorepati”. In December 2011, acid violence was nationally recognized in Cambodia, through the passing of legislation which increased penalties for acid violence significantly. The Cambodian Acid Survivors Charity (CASC) was formed in March 2006 by its partner organization, the Children's Surgical Centre (CSC) and is the only organization in Cambodia which works with survivors of acid attacks. It suggests that preventive measures should be taken to curb this crime, proper laws should be made.

⁴⁰Shabina Begum, “Acid Violence: Uniting for the solution”, available at: http://www.dawsoncornwell.com/en/documents/Acid_Violence.pdf, (visited on Jul 14, 2019).

“Weak Laws against Acid Attacks on Women: an Indian Perspective”⁴¹, Acid attacks especially on women, have seen an alarming growth in India over the last decade. While these attacks can be attributed to various factors such as the social weakness of women in a male-dominated society, the situation is exacerbated by the general neglect of the lawmakers. As acid is inexpensive and easily available, it serves as an ideal weapon for the perpetrators. Further, as this offence is bailable in certain situations, the punishment does not act as a sufficient deterrent in most cases. This paper describes the horrendous effects that acid attacks have on the victims physically, psychologically and socially. It also examines the contemporary laws governing acid attacks on victims and offenders. Ideas for a better legal approach are examined with special reference to acid attacks as a crime, and the validity of specific legal provisions for female victims.

In the paper **“Women Security and Legal Safeguards in India”**,⁴² Naseem Ahmad Khan writes, the exalted status of Indian women in ancient days suffered a setback in the medieval period. Social economic and political factors played a major role in their suppression. Social inhibitions and discriminatory practices against them continued to exist during the 'enlightened' and 'civilized' imperial rule. The author discusses the position of women under Constitution of India. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. Though the constitution has provided equality of both the sexes man and women but biological condition of the female and developed sense of subordination demand extra protection for them. The reason is that “women's physical structure and the performance of certain functions place her at a disadvantage in the struggle for subsistence and her physical well-being becomes an object of public interest and care in order to preserve the strength and vigour of the race”. Thus the law and justice demands additional privileges and safeguards for maintaining proper socio- legal status of women in the society. Further the paper mentions various provisions relating to women under Indian Penal Code, various statute

⁴¹ Nehaluddin Ahmad, "Weak Laws. against Acid Attacks on Women: An Indian perspective available at: <http://mlj.sagepub.com/content/80/3/110.abstract>, (visited on July 15, 2019)

⁴²Naseem Ahmad Khan, "Women Security and Legal Safeguards in India", Journal of Business Management & Social Sciences Research (JBM&SSR), Vol. 2, No. 4, 1-7 (April 18, 2016).

laws and recommendations of National Commissions for Women. It also discusses the Delhi post-gang rape position. In keeping with the public outrage over Nirbhaya's brutal gang rape in Delhi on November 16, the Justice J.S. Verma Committee has raised the bar of punishment for a wide range of existing and proposed sexual offences even as it rejected the demand for introducing death for rape.

Ameesha Oberoi in her paper, “**Domestic Violence and Acid Attacks: a Voice for the Victims**”,⁴³ discusses about the domestic violence on women and acid attacks. Domestic violence is the behavior used by one person in a relationship to control the other. Today women have proved themselves in almost every field, yet the reports of violence against women are increasing day by day. One reason for this can be the patriarchal values that exist in our society and orthodox mindset of the society that women are physically and emotionally weaker than the males. Violence against women in the form of acid attacks is becoming a growing phenomenon in India. The frequency of acid attacks is increasing day by day and one reason could be the easy availability of these acids in open market as they are used heavily for toilet cleaning etc. They are highly concentrated, and due to that, the men find it an easy weapon to buy and use. In the end, article strongly proposes for separate legislation to deal with the offence of acid attack. Other than this, there should be National Acid Attack Victims Assistance Board which will provide assistance to the victims by ensuring medical treatment and other services such as psychological Counseling. Apart from this, measures should be taken to regulate the sale of acids. Lastly the paper ended with the positive ray of hope as India is the largest democracy with a strong civil society. It has the potential and the opportunity to use laws to improve the lives of millions of women across the country.

⁴³ Ameesha Oberoi, “Domestic Violence and Acid Attacks: A Voice For The Victims”, Uthan: Thoughts Towards Development, Issue No. 4, (2012), available at: https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=110&cad=rja&uact=8&ved=0CHEQFjAJOGQ&url=http%3A%2F%2Fwww.dsw.gnu.ac.in%2FUserFiles%2FFile%2FUTTHAN_MARCH_2012.pdf&ei=nO55U6SDK9SIuATb7oAY&usg=AFQjCNHsjvpXKmEe2xyo_6Uy6PACQbfnJA&sig2=MpHofruzKI88tWMCOjrDg, (visited on August 2, 2014).

The research paper, “**Violence against Women in India: Preventive Measures**”,⁴⁴ analyzed the types of violence and reasons for such violence. Statistical figures on the crimes and violence cases are compared and the government and voluntary organizations are making efforts towards ending/minimizing violence against women. The efforts of the government are in the shape of enacting relevant legislations, issuing orders and launching various women welfare schemes. Violence against women is partly a result of gender relations that assumes men to be superior to women. Given the subordinate status of women, much of gender violence is considered normal and enjoys social sanction. Manifestations of violence include physical aggression, such as blows of varying intensity, burns, attempted hanging, sexual abuse and rape, psychological violence through insults, humiliation, coercion, blackmail, economic or emotional threats, and control over speech and actions. In extreme, but not unknown cases, death is the result. Discussing about acid attacks it states that acid throwing is another form of violence against women, which are increasing at alarming women, which are increasing at an alarming rate. The young and teenage girls are victims of acid burn because of refusal of marriage and rejection of love proposal given by young man. Acid burns also taken as measures of personal revenge, family quarrel and quarrel in couple and also feuds between two families, kinship. Although laws have been made against such cruelty, the offenders are practicing very often in the society. Further it states that it is clear that violence against women is endemic in India. The reason is women in the country are highly vulnerable because of poor quality of life indicated by rampant poverty, lack of education, high under five morality, poor health status, high fertility rate and high maternal mortality rate.

Nehaluddin Ahmad in the article ‘*Acid Attacks on Women: An Appraisal of the Indian Legal Response*’⁴⁵ (2011) puts light on the evil practice of acid attack that is prevalent in many South Asian countries. The intentional throwing or pouring of acid with a motive of defacing or killing a person is used as a brutal way of taking revenge. Though this act can be and is in reality

⁴⁴Ambaraya Gundappa, “P.B. Rathod, Violence Against Women in India: Preventive Measures”, Indian Streams Research Journal, Vol. 2, Issue IV, 1-4 (May7, 2014).

⁴⁵Available at: https://www.academia.edu/31613783/A_REVIEW_OF_LITERATURES_ON_ACID_ATTACKS_IN_INDIA (visited on March 14, 2017)

committed against persons irrespective of sex, age or other such classifications; it is mostly committed against women who are in the prime of their youth. With a short and beautiful starting describing the causes of such attack the author proceeds to the main arguments. Highlighting the physical as well as psychological consequences of such attack, the author also covers the insufficiency of the law to give justice to the victims and the possible steps that can be taken to strengthen the law to deal with such attacks. The author also points out the gender aspect of the violence of acid attack. Before concluding this article with a set of suggestions; this work also lists down the major factors that in the author's opinion are contributing to the growth of acid attack cases.

The psychological consequences and trauma faced by victims in crimes like molestation, rape, acid throwing is grave. It is very difficult for the victims to depict the incident, lodge a complaint and fight for justice. Complications to this difficult situation are further added with police, family and society's wrong attitude and way of handling such victims. Lack of skill in dealing with sensitive issues like acid throwing often results in secondary victimization and aggravates the trauma of the sufferer. **Parvathi Menon** and **Sanjay Vashistha** authored '*Vitriolage & India- The Modern Weapon of Revenge*' (2013)⁴⁶ is a well written piece of article that covers almost all aspects of the brutal violence of acid throwing as a weapon of revenge. Starting with the tragic incident of Laxmi's life the authors proceed to highlight a few relevant statistics on the issue. The common reasons of acid violence and the post attack evil consequences that the victims and their families undergo are also been exhaustively discussed in this work. Moving to the legal scenario with respect to acid attack, the authors highlights India's obligation under the 1993 *Declaration on the Elimination of Violence against Women*. This article comprehensively deals with India's legal stand on acid violence pre and post *Criminal Law (Amendment) Act of 2013*. Two of the most important issues raised by the authors in this article are 'role of police in the investigation of acid attacks' and 'judiciary's role in prosecuting the perpetrators of acid attack'. This article is concluded after a short mention of acid violence in other South Asian countries (Bangladesh, Pakistan and Cambodia in particular). Though this article is a successful attempt in giving a holistic

⁴⁶Ibid.

approach on the brutal act of acid throwing, the major role played by Civil Society Organizations is nowhere been appreciated by the authors. However, the inadequacy of compensation provided to the victims is not just highlighted, but is strongly criticised in this article.

Laws and regulations play a vital role in controlling deviant behaviours of members of a society. Crimes like acid attacks affect not only the person concerned, but have a tendency of disturbing the smooth functioning of the society. The next literature reviewed by the author looks into the effectiveness of the laws that addresses the crime of acid attack. **Kundan Srivastava** authored article '*Weak Laws against Acid Attacks on Women in India- Shameful state for Women Organization*' (2014) starts with a definition of the term 'acid attack' in the words of the author. The author considers marriage and family related issues, rejection, male honour etc. to the vital reasons that results into the brutal violence of acid attack. It is also pointed out that poor interpersonal relationships and domestic intolerance towards women also contributes greatly towards commission of violence against women. This article also describes the causes and consequences of acid attack in a precise way. This article also narrates how the cheap and easy availability of acid is aggravating the whole situation and putting the victims in a state of terrible physical and psychological challenges. As the name suggests, the author in this article shows that the laws regulating the crime of acid attack are weak and the situation is further complicated by poor implementation of legal provisions and guidelines issued by the Courts.⁴⁷

Vanita Awasthi and **Rohit Kumar Gupta** author article '*A Socio-Legal Study of Acid Attacks on Women in India*' (2015)⁴⁸ starts with a brief description of the brutal violence that acid attack survivor Laxmi has experienced. After defining what constitutes an acid attack; the authors provides some statistical data on the issue. They also point out that incidents of crimes against women often go unreported and hence the little statistics that is available has a tendency of under representing the actual picture of the problem. The author further views that in general, culprits choose market places or public roads to attack the victim. They

⁴⁷ Available at: https://www.academia.edu/31613783/A_REVIEW_OF_LITERATURES_ON_ACID_ATTACKS_IN_INDIA (visited on March 14, 2017)

⁴⁸Vanita Awasthi and Rohit Kumar Gupta, A Socio-Legal Study of Acid Attacks on Women in India, (International Journal of Research and Analysis, Vol. 2, Issue 6, 2015).

rely on moving motor cycles as it is the easiest medium of escape. The causes and consequences of acid attack are clearly explained in this work with the use of diagrams and citation of relevant statistics. Physical, psychological and socio-economic consequences that victims and their families experience are also narrated in a beautiful way. The authors of this article, further, explain India's legal framework on acid attack and the role of police in the investigation of cases of brutal violence of acid throwing. Though this article provides a clear picture on the causes, consequences, statistics and laws on this violence; some of the important aspects like role of judiciary and initiatives taken by the Civil Society Organizations are not covered in the scope. This article is concluded with a proposal for concentration on value based education and enactment of new laws as the best way of to eliminate acid attacks from India.

Chinmaya Kumar and **Hiranmaya Nanda** authored research paper '*Acid Attack and Women in India: A Critical Analysis*' (2015)⁴⁹ starts with a brief overview on the issue of acid attack. This introductory part also points out how the increasing rate of crimes and discovery of new ways of committing them is a big concern for the society. In this paper, the significant recommendations put forward by the 226th Report of the Law Commission of India and the amendments brought by the *Criminal Law (Amendment) Act 2013* are outlined. The newly inserted provisions of criminal law that were brought under operation by the *Criminal Law (Amendment) Act 2013* are discussed in this paper in a detailed manner. The scope of this paper is mostly confined to the legal matters only. However, the title of this paper tends to show a wider picture and it is difficult to infer that the scope of this paper excludes the international framework, role of civil societies, consequences of the offence and ways to address the evil effects of the violence.

Aishwarya Deb and **Prithwish Roy Chowdhury** authored '*A Fate Worse than Death: A Critical Exploration of Acid Attack Violence in India*' (2015)⁵⁰ starts with a thought provoking quotation of acid attack survivor Laxmi. This

⁴⁹ Chinmaya Kumar Mohapatra, and Hiranmaya Nanda, *Acid Attack and Women in India: A Critical Analysis*, (Global Journal for Research Analysis, Vol. 4, Issue 7, July 2015)

⁵⁰ A Deb and P. Roy Chowdhury, "A Fate Worse than Death: A Critical Exploration of Acid. Attack Violence in India", *Law Mantra*, Vol. 2, Issue 5, available at: <http://journal.lawmantra.co.in>. visited on 10/05/2019

quotation beautifully portrays how acid attack brings a complete change in the victims' life. Laxmi's statement also portrays how society blames victims; rather than showing empathy for such attacks. The introductory part of this article considers 'social stigmatization' and 'leniency of laws in punishing perpetrators' as a major reason of why many such violent incidents go unreported. Looking at the gender dimension of such attacks the authors narrates that most of the reported acid attacks have been committed on women as a weapon of dominating them by showing masculinity and superiority. The long continuing strong patriarchal culture of India is blamed as the main reason why female section has to face such atrocious attacks. The authors of this article discussing the legal provisions and developments on acid attack questions whether the present punishment and compensation is enough considering the lifelong impact of the attack on the survivors. After completing the prescribed term of imprisonment the perpetrators will be free and will live a normal life. However, the victims and their families will have to live with the trauma for their entire lifetime. A part of this article, entirely dedicated on the story of brave hearts is very inspiring. The stories on how survivors continued to live their dreams and inspired their fellow survivors to do the same are really appreciable. Though this work has certain limitations as the authors have abstained from discussing the international perspective and policies on acid attack, role of Civil Society Organizations at international or national levels etc., this work has its own weightage.

Researcher has studied an article from **Kashmir Journal of Legal Studies Volume- IV (2015)**, on Compensatory Jurisprudence Under Criminal Law in India: Need for Reforms by Dr. Susmitha P. Mallaya this paper aims to examine and evaluate the flaws in the existing laws governing the payment of compensation to victims of crime and also to make an attempt to suggest some reforms in criminal law to compensate victims.

Researcher has studied an article from **Bharati Law Review (B L R) Quarterly Journal Volume I- Issue 4 (2013)**⁵¹ on Status of Victims in Criminal Justice System by Dr. Janardan Kumar Tiwari. This article explicitly discusses about the concept and meaning of victim, problems and rights of victims, victim

⁵¹Dr. Janardan Kumar Tiwari Status of Victims in Criminal Justice System, (Bharati Law Review (B L R) Quarterly Journal Volume I- Issue 4, 2013)

compensation scheme etc. **Women and Crime** by Babita Chugh (2015), Rajat Publications New Delhi, the book explains manifestations of violence include physical aggression, such as blow of varying intensity, **burns**, psychological violence through insults, humiliation etc. and intends to portray the entire picture of women and crime in a coherent way. Various vital issues have been explained in the light of case studies and law suits and judgment thereon the world over.

Researcher has studied an Article “**Compensatory Judicial Jurisprudence Through Constitutional And Legal Provisions**”⁵² by Dr. Sunita Arya and Principal, Matushri Ahilyadevi College of Law, this article briefly dealing with constitutional mechanism as well as legal Provisions related to victim compensation.

A report “**Combating Acid Violence in Bangladesh, India, and Cambodia**”, by Sital Kalantry and Jocelyn E. Getgen published by Avon. Global Centre for Women and Justice and Dorothea S. Clarke Program in Feminist Jurisprudence in 2011; examines acid violence in Bangladesh, India, and Cambodia from an international human rights perspective. This Report is the first comprehensive, comparative, study of acid violence that examines the underlying causes, its consequences, and the multiple barriers to justice; for its victims. Acid attacks, like other forms of violence against women, are not random or natural phenomena. This report utilizing an international human rights framework, demonstrates that acid violence is a form of gender based violence and discrimination prohibited under international law including the “Women's Bill of Rights”, i.e., the Convention or Elimination of All Forms of Discrimination against Women. It identifies the causes of acid violence and suggests practical solution to address them. Acid violence is prevalent in these countries because of three related factors: gender inequality and discrimination, the easy availability of acid, and impunity for acid attack perpetrators. Acid is easily and cheaply available, and access to justice eludes many victims in countries, such as Bangladesh, India, and Cambodia, where attacks are prevalent. To combat acid violence, governments should limit the availability of acid, appropriately punish

⁵²Dr. Sunita Arya and Principal, Matushri Ahilyadevi College of Law Compensatory Judicial Jurisprudence Through Constitutional and Legal Provisions, (Altius Shodh Journal of Management and Commerce ISSN 2348-8891Indore)

perpetrators provide adequate redress to victims, and support women, empowerment to enhance their self-confidence and ability sustain independent livelihoods.⁵³

“First International Conference of the South Asian Society of Criminology and Victimology (SASCV)”,⁵⁴ 15-17 January 2011, Jaipur, Rajasthan, India: SASCV 2011: Conference Proceedings, edited by K. Jaishankar and Natti Ronel, is the collection of peer reviewed papers which were presented in SASCV 2011 and published in the conference proceeding. In this report paper presented by Hari Priya on “Victims of acid attack-recourse from acerbic life to normal one”, is reviewed by the researcher. This paper used the definition of acid attack as given in “Scheme of Relief and Rehabilitation of offences (by Acids) on Women and Children” under Section 3(b), formulated by National Commission for Women, i.e. “acid attack is an act of throwing acid or using acid in any form on victim with the intention or with knowledge that such person is likely to cause to other permanent or partial damage or deformity or disfiguration to any part of the body of such person”. It adds that acid violence can be termed as an Act of gender based violence that results in or is likely to result in physical, sexual or psychological harm of suffering to women.

“Breaking the Silence Addressing Acid Attacks in Cambodia”⁵⁵ this report is written with the aim of providing with an overview of the problem of acid attack so that, any approach to addressing acid violence should ultimately consider, and sets out a series of recommendations of how best to address acid violence. The Report is broadly speaking, divided into four main areas of consideration. One and two outline the background information to the

⁵³ Available at https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1000&context=avon_clarke (visited on August 11, 2017)

⁵⁴ Available at: [http://books.google.co.in/books?id=aWF8a174t6gC&pg=PP384g=dq=First+International+Conferenceof+the+South+Asian+Society±of+Criminology±and+Victimology+\(SASCV\),+1517+January+2011,±Jaipur,±Rajasthan,+India:±SASCV+2011+:+Conference+Proceedings,+edited+by+KMaishankar±and+Natti+Ronel&source=bl&ots=jilK2NwbG&siglikD7xPRdLrv9U29cfEPnRIVIVU8thl=en&sa=&ei=zOCU5zW6JCdugT9yYGABA8Lved=OCCcQ6AEwAA#v=onepage&q=First%20International%20Conference%20of%20the%20South%20Asian%20Society\(Ya0oP/020Criminology%20and%20Victimology%20\(SASCV\)%2C%201517%20January%20201.1%2C%20Jaipur%2C%20Rajasthan%2C%20India%3A%20SASCVV0202011%20%,0A%20Conference%20Proceecings%2C%20edited%70by%20K.V090Jaishankar%20and%20Natti%20Ronel&f=false](http://books.google.co.in/books?id=aWF8a174t6gC&pg=PP384g=dq=First+International+Conferenceof+the+South+Asian+Society±of+Criminology±and+Victimology+(SASCV),+1517+January+2011,±Jaipur,±Rajasthan,+India:±SASCV+2011+:+Conference+Proceedings,+edited+by+KMaishankar±and+Natti+Ronel&source=bl&ots=jilK2NwbG&siglikD7xPRdLrv9U29cfEPnRIVIVU8thl=en&sa=&ei=zOCU5zW6JCdugT9yYGABA8Lved=OCCcQ6AEwAA#v=onepage&q=First%20International%20Conference%20of%20the%20South%20Asian%20Society(Ya0oP/020Criminology%20and%20Victimology%20(SASCV)%2C%201517%20January%20201.1%2C%20Jaipur%2C%20Rajasthan%2C%20India%3A%20SASCVV0202011%20%,0A%20Conference%20Proceecings%2C%20edited%70by%20K.V090Jaishankar%20and%20Natti%20Ronel&f=false) (visited on January 25, 2013).

⁵⁵ “Breaking the Silence Addressing Acid Attacks in Cambodia” (Cambodian acid survivors charity), available at http://www.combodianacidsurvivorscharity.org/docs/breaking_the_silence.pdf, (visited on August 14, 2019).

phenomenon of acid violence in Cambodia. It describes acid violence as a premeditated form of assault involving the throwing, pounding or administering of acid, or other similarly corrosive substance, on an individual, with the intention to seriously maim, disfigure, torture or kill. The effects of acid violence are catastrophic, irrevocably changing - if not destroying - the lives of its victims; for them, it is “a type of torture which never ends”. The average perception of a female victim in the community is of someone considered to be at fault for 'unfaithfulness'. Chapter Three is concerned with the relationship between the availability of acid and the incidence of acid violence. The ease of access to acid strongly exacerbates the situation. The report proposes a system of regulation through licensing to limit the availability of acid to those who legitimately require it. There are two key issues this report address: the first is the problems presented by access to acid; the second being the problems generated by the issue of dangerous transportation and storage, notably, the accidents which arise from this. Chapter Four explores one of the most urgent issues that needs to be addressed is that of impunity: perpetrators of acid violence regularly escape prosecution and conviction for their crimes prevalent and acid-related attacks are increasingly common in Cambodia, it is evident that insufficient efforts are being made to address the problem of impunity. These shortcomings can be attributed to all levels of the criminal justice process. Further in report in its last chapter discusses that the public Perceptions toward acid survivors and the stigma associated with acid survivors play a powerful role in acid violence. Not only are these elements in large part responsible for some of the psychological traumas experienced by survivors as a result of their ostracism and rejection from society, but they can also serve to legitimize. Thus, acid violence is not only perceived as a means of ‘settling score’, and putting a very definitive end to a personal conflict or dispute, but in choosing this weapon the perpetrator is often seeking to punish the victim for some perceived wrong doing, and to mark them as an act of revenge. The report thus discusses the issues relating to acid attacks widely and also provides recommendations designed to address these issues.

The report “**Living in the Shadows: Acid attacks in Cambodia**”,⁵⁶ discuss about the acid attack in Cambodia. Throwing acid is one of the worst

⁵⁶Available at: <http://www.bbc.co.uk/news/magazine-23631395>, (visited on September 27, 2018).

crimes that a person can commit. Acid throwing is usually an act of revenge, motivated by jealousy or hatred, because of a personal relationship problem such as a broken love affair or marriage, unfaithfulness, or rejection. The perpetrator blames the victim for the problem, and wants to inflict as much physical and mental suffering as possible. For victims, acid throwing is a type of torture which never ends. As well as permanent physical damage and scarring, victims suffer many other long-lasting problems. They feel sad, worthless, worried and ashamed. They may become very lonely, because other people stare or laugh at them or blame them for the acid attack. Victims may never marry or have children, and even simple tasks like going to the market may be embarrassing and frightening for them. They may not be able to work, or nobody will give them a job, so they become very poor and struggle to survive. Nearly one third of the people injured in acid attacks are not the intended victims. This is because acid is a messy weapon, and other people nearby the victim at the time of the attack are often injured accidentally as well. The targets of acid attacks are mainly women, but men are also deliberately attacked. Both men and women commit acid attacks. Acid throwers mainly use sulfuric or nitric acid, which are two of the strongest acids and can eat through the skin, muscle and even bones of humans. The report suggested for the more stringent laws in such cases, victims should be encouraged to live normal life, medical facilities for victims and control on the sale of acids.

Burns Violence Survivors-Nepal in partnership with the Acid Survivors Trust international prepared a report, “**Acid and Burns Violence in Nepal: A Situational Analysis**”,⁵⁷ in November 2011 which provides for the detailed discussion about problem of burns violence in Nepal. Burns Violence Survivors-Nepal (BVS-Nepal) is a not for profit non-governmental organization (NCO) established in 2008. This report was written by Ingrid Massage, with the assistance of Sulakshana Rana and Prativa Basnet of BVS-Nepal. It discusses various cases of acid attacks. The report mentions that there are no reliable nationwide statistics regarding the prevalence of violence against women and domestic violence in Nepal. It states that the main reasons of acid attacks in Nepal are Suicide, accident and Homicide.

⁵⁷ Available at: http://www.acidviolence.org/uploads/files/Nepal_BVSN_Situational_Analysis_Report_FINAL_Nov2011.pdf, (visited on August 2, 2018).

Acid throwing is not very common in Nepal. Mannan et al (2007) described such attacks as “crimes of passion” but they are now recognized to be premeditated. However, acid throwing should be considered to be, at least, attempted homicide. The report gave some recommendations:

- Introduce systematic gathering and analysis of data relating to domestic violence and ABV by all relevant agencies.
- Ensure the new Constitution incorporates the principle of equality between women and men, and prohibits both direct and indirect discrimination against women, violence against women, including ABV, and harmful practices.
- Regulate the production, distribution, packaging, storing, selling and using of concentrated acids.
- Make acid and burns violence part of the Domestic Violence Act, introducing rigorous sentences and ensuring victims of acid and burns violence can be provided with all the necessary medical treatment and after-care, at the expense of the government, if necessary.

Another literature reviewed by the researcher is the 226th Report of the Law Commission of India on ***‘The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a Law for Compensation for Victims of Crime’ (2009)***⁵⁸. The 226th Report of the Law Commission of India not only looks into the technicalities of legal provisions, but at the same time effectively deals with the consequences and after care necessary for the rehabilitation of the victim. This Report is divided into six parts. The first part of this report introduces the cruel and deliberate act of acid attack with a brief overview on the consequences and reasons of such attack. Further this chapter also highlights the legal provisions applicable to such crimes. In its second chapter, the Report provides the statistical overview and detailed analysis of the consequences of such attack. The third chapter relates to cases on acid attack that have been registered under different sections of the *Indian Penal Code*. In the fourth chapter a comparative study on the laws of Bangladesh, Cambodia, Uganda, Jamaica,

⁵⁸ Law commission of India, 226th Report on proposal for inclusion of acid attacks as specific offences in the Indian Penal code and a law for compensation for victims of crime (July, 2008), available at <http://lawcommissionofindia.nic.in/reports/report226.pdf> (visited on July 20, 2014)

United Kingdom is made. The fifth chapter of this report on compensation for the victim highlights a few important cases on compensation to the victims of acid attacks. The last and the final part of this report, i.e. conclusion and recommendations propose the inclusion of new provisions on Indian criminal laws to consider acid attacks as a standalone crime.

Another report reviewed by the researcher is the '**Report of the Committee on Amendments to Criminal Law**' (2013). Reviewing this literature is significant as the outcry of public after the Delhi gang rape case and the resulting outcome in the form of Justice Verma Committee Report are the only reasons behind declaring acid attacks as a standalone offence in India. The Verma Committee Report mentions acid attacks as the most heinous form of violence. Referring to the 226th Report of the Law Commission of India, Verma Committee admits that though acid attacks can be committed against any man or woman; it has a specific gender dimension in India. Some of the vital reasons of acid attack like rejection of sexual advances or marriage proposals, alleged adultery and domestic violence are also mentioned in the report. The Verma Committee Report rightly points out that attackers target the face of the women as they are conscious that self-worth and self-esteem of a woman often lies in her face; and hence the dismemberment of the face or the body will cause a permanent psychological damage to the victim. Acknowledging the research already done by the Law Commission of India in its 226th Report; the Verma Committee proposes and succeeds to bring the long awaited amendments to Criminal Law.

Law is a dynamic process; that develops with time and civilization of humanity.

Amendments play a vital role in addressing legal gaps and making them more suitable and relevant. The '**Criminal Law (Amendment) Act**' (2013), one of the most significant amendments to the Criminal Laws of India is also reviewed for better understanding the scope and ambit of the newly inserted criminal law provisions. After the terrifying gang rape incident of December 16, 2012 and the resulting protests and rallies it was realised that violence against women demands stringent legal provisions. According to the report prepared by Justice Verma

Committee on Amendments to Criminal Law⁵⁹, the most awaited amendment to the *Indian Penal Code* took place that made acid attacks a standalone offence. Under the *Criminal Law (Amendment) Act* 2013, a new clause was inserted in Section 100 of the *Indian Penal Code*. Under this newly added clause, an act of throwing acid or even an attempt to throw or administer acid which may be reasonable to cause the apprehension that grievous hurt will otherwise be the consequence of such act. Under the provisions of Section 166A, the criminal consequences to be faced by a public servant in case he fails to record any information given to him under Section 154(1) of the *Code of Criminal Procedure*, 1973 in relation to a cognizable offence punishable under the provisions of Section 326A and 326B of the *Indian Penal Code* are specifically provided. Other two important provision inserted by the *Criminal Law (Amendment) Act* in the *Indian Penal Code* are Section 326A and Section 326B. The *Criminal Law (Amendment) Act* 2013 holds much significant in relation to imposing criminal consequences on the perpetrators of acid violence.

Bhagalpur Blindings case⁶⁰ refers to a series of incidents in 1979 and 1980 in Bhagalpur in the state of Bihar, India when police blinded 31 under-trials, by pouring acid into their eyes. On October 11, 1980, the Delhi edition of the Indian Express published a news item in single column on an inside page headlined “10 under trials blame police for losing sight”. The sketchy report attracted little notice. But more than a month later, a well-researched, detailed and strikingly-presented follow-up shook Parliament. On November 22, the front page of the paper displayed the picture of a blinded man under the heading “Eyes punctured twice to ensure total blindness”. The Article by Arun Sinha, the Patna Correspondent, drew attention to the atrocity. Bihar Chief Minister Jagannath Mishra reluctantly ordered an inquiry. Two days later, the matter was raised in Parliament. The weeklies took up the story, and published more close-ups of the blinded prisoners, with gory details of eyeballs being pierced with cycle spokes and acid poured into them. The Bhagalpur blindings provide the story of the victims of acid attacks. It concerned a habeas corpus petition moved in the

⁵⁹ Justice Verma Committee on Amendments to Criminal Law was constituted by Government of India Notification No. SO (3003) E, dated December 23, 2012 with Justice J.S. Verma (retd.) as the Chairman and Justice Leila Seth (retd) and Gopal Subramaniam as members.

⁶⁰ Anil Yadav v. State of Bihar, 1982 (2) SCC 195.

Supreme Court on behalf of under trial prisoners in Bhagalpur jail in Bihar who “alleged that the police deprived them of their eyesight by using acid”. It was observed by the Bench headed by Justice Bhagwati that there is nothing the court can do to restore the physical damage, which seems irreparable. But the offenders must be brought to book, at least in the hope that such brutal atrocities will not be committed again. If compensation was not granted, Article 21 would be reduced to nullifying “A mere rope of sand”. Three police officers who were involved in the shocking incident were convicted for taking the law in their hands.

Naeem Khan Guddu v. State⁶¹ decided on October 7, 2013, Supreme Court said that Acid attack, especially on women, has seen an alarming growth in India. Acid attack or "vitriolage" is often referred to as a "crime of passion" fuelled by jealousy and revenge. Acid throwing is the easiest way to hurt a woman and often used as a form of revenge on refusal of sexual advances, proposal of marriage and demands of dowry. Perpetrators of acid attacks intend to disfigure and cause extreme physical and mental suffering to victims. This appeal deals with one such unfortunate and ghastly incident where a girl at tender age of 16 years was brutally attacked by acid.

Laxmi v. Union of India,⁶² the Supreme Court said that the acid attack victims shall be paid compensation of at least Rs. the acid 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs.1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously, as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.

State of Karnataka by Jalahalli v. Joseph Rodrigues S/O V.Z.⁶³ is an important case of acid attack in which the court discussed about the importance of

⁶¹Criminal Appeal No.980/2009.

⁶²(2014) 4 SCC 427

⁶³ Decided in the Hon'ble High Court of Kerala on 22/8/2006 Available at: <https://indiankanoon.org/doc/73735/> (visited on December 17, 2016).

compensation for acid victim. In this nation where great tradition and culture exists, where right from ancient times it is stated that where woman is given respect, only in that place God resides yet another brutal inhuman attack with acid on a young girl of hardly 20 years of age, has given rise to this appeals. In this case, acid was thrown on Haseena a young girl of hardly 20 years old girl for refusing a job offer from the accused. This deeply scarred her physical appearance, changed the colour and appearance of her face and left her blind. The accused was convicted under Section 307 of Indian Penal Code and sentenced to imprisonment for life. A compensation of Rs. 2,00,000/- in addition to trial court fine of Rs 3,00, 000 was to be paid by the accused to the Haseena's parents. This was the landmark judgment as it was the first time that a compensation which was quite large sum was given to the victim to meet the medical expenses including that of plastic surgeries.

Parivartan Kendra vs. Union of India & Ors.,⁶⁴ the honorable Supreme Court stated that, the victim should be compensated to a tune of at least Rs. 10 Lakhs. Suffice it to say that the compensation must not only be awarded in terms of the physical injury, but should also take note of victim's inability to lead a full life and to enjoy those amenities which is being robbed of her as a result of the acid attack. Therefore, this Court found it proper to award a compensation of Rs. 10 lakhs and accordingly, directed the concerned Government to compensate the victim to a tune of Rs. 10 Lakhs. In the light of the Judgment given in Laxmi's case the court directed the concerned State Government of Bihar to compensate the main victim's sister, also to a tune of Rs. 3 Lakhs.

The Supreme Court of India in **Nipun Saxena v. Union of India**⁶⁵, had opined that “it would be appropriate if NALSA sets up a Committee of about 4 or 5 persons who can prepare Model Rules for Victim Compensation for sexual offences and **acid attacks** taking into account the submissions made by the learned Amicus. The Supreme Court on May 11, 2018 approved the ‘**Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes-2018**’, a uniform compensation scheme for victims of

⁶⁴(2016)3 SCC 371.

⁶⁵WP (C) No. 565 of 2012

sexual assault and **acid attacks**. The scheme was prepared by the National Legal Services Authority (NALSA) in consultation with the Union Government.

1.2.Statement of The Problem

Acid attacks occur at high rates in India because the acids used by the attacker such as sulfuric acid and nitric acid are cheap and easily available. Acid attacks are on the rise in India.

Acid attacks have been made punishable in different parts of the world including Bangladesh, Australia, Cambodia, El Salvador, Ethiopia, China, Italy, Laos, Malaysia, Nepal, Pakistan, Sri Lanka, Thailand, Uganda, USA, and UK, Vietnam. However, the number of incidences in Bangladesh, India, Pakistan, Cambodia and Uganda are much higher and are on rise. Most states punish acid violence under the existing norms prescribed for violent crime or gender-based crime (e.g., grievous hurt, attempted murder, assault, domestic violence).⁶⁶ Increasingly, countries with higher acid attack rates have enacted specific legislation on acid violence and/or the sale of acid. Bangladesh, the state with the highest rate of acid attacks, has the most comprehensive acid attack legislation in the world.

Very little data is available on acid attacks in India some studies have reported an increasing trend in cases relating to acid attacks. While the statistics of the London-based Acid Survivors Trust International (ASTI) show such attacks worldwide come to near about 1,500 a year. As per ASFI (Acid Survivors Foundation India) there could be 700 to 800 recorded cases across India in the past 6 years.⁶⁷ In this regard it is pertinent to note, that in India crime against women mostly goes unreported with higher magnitude in rural areas. Due to this reason the abovementioned number may under-represents the true picture of acid violence in India and the plight of sufferer. Furthermore, it is also observed that acid attacks are mostly conventional against a specific gender, i.e. women. Women and girls constitute majority of the victims of the vitriolage. In most of

⁶⁶Dexter Filkins, "Afghan Girls, Scarred by Acid, Defy Terror, Embracing, School," *Times* 1 January 2009 available at: http://www.nytimes.com/2009/01/14/world/asia/14kandahar.html?_r=0 (Visited on June 13, 2019)

⁶⁷ Available at: www.acidsurvivors.org (Visited on June 16, 2019)

the South Asian countries, it has been witnessed, that the victims of acid violence have a gender aspect attached to it whereby men generally throw acid on women as they cannot face the rejection by them and hence mutilate their face and body. Generally, victims of acid violence include young people under the age of 25. In India nearly in 34% of cases victims were between 18 to 29 years. It also alarming to note that the crime scene for most of such attacks are public places, and considering the nature of weapon, this also pose an eminent threat to the by standers.⁶⁸

International human rights law requires governments to act affirmatively and with due diligence to protect human rights and adequately respond to human rights violations. Due diligence imposes upon governments the obligations to enact legislation designed to combat acid violence, ensure effective implementation of laws, and provide redress to victims. It is amply demonstrated that acid attacks occur at increased rates in areas where acid is widely used for industrial or other business purposes. Companies produce, distribute, sell, and use acid in manufacturing processes. As noted above, one of the reasons for the prevalence of acid attacks in India is the cheap and easy availability of acid. Even when governments fail to regulate the sale and use of acid such businesses should adhere to emerging international standards and exercise due diligence to minimize the negative human rights impacts of their business activities. Companies can contribute to combat with intentional acid attacks by adopting policies for the safekeeping and proper labeling of acid and by supporting government and industry efforts to regulate the proper use and disposal of acid.

A State's due diligence obligation includes providing redress to victims for the human rights violations they have suffered. Redress can include rehabilitation of victims and monetary compensation. Many acid violence survivors must undergo numerous complicated surgical procedures. These medical procedures are very costly and require specialized expertise and facilities. Governments should provide adequate healthcare in government facilities to victims, and, where

⁶⁸Avon Global Centre for Women and Justice at Cornell Law School, the Committee on International Human Rights of the New York City Bar Association, The Cornell Law School International Human Rights Clinic, The Virtue foundation. (2011). Combating Acid Violence in Bangladesh, India and Cambodia available at [www.ohchr.org/Documents/HRBodies/CEDAW/Harmful Practices/AvonGlobalCentreforWomenandJustice.pdf](http://www.ohchr.org/Documents/HRBodies/CEDAW/HarmfulPractices/AvonGlobalCentreforWomenandJustice.pdf). (Visited on June 8, 2019).

this is not available, the government should pay the expenses for necessary treatment at private health facilities. Few healthcare professionals in government facilities in India are trained in proper first aid response to acid burns, and few specialized facilities to adequately treat acid burns are available in government hospitals. Additionally, redress for acid attack victims should include compensation if they are unable to work. Most survivors in these countries do not receive adequate healthcare or monetary compensation from their governments.

It is completely clear that even if several amendments have been introduced in Cr.P.C. yet there is dearth of proper comprehensive laws related to **compensation** that can bring actual relief to the victims of crime. Apart from it, there are number of special laws which have proclaimed to award compensation for victims but these statutes have been made for different purposes and there is no clear cut direction available for legislature as well as judiciary. These laws are more to confuse rather than helping. These Acts are providing compensation to their own victims of crime only. The insertion of sections 357 A, 357 B, 357 C is only a step towards direction of recognizing a range of victim's rights in criminal justice.

1.3. Objectives of The Research

The specific objectives of the study are as following:

- To make a critical review of the different types of violence against women in the ancient India, and to study the new types of violence including Acid Attack and its physical, as well as psychological impact,
- To find out the reasons responsible for the violence against women in general and particularly for the acid attacks. Why acid attacks are increasing in our country?
- To trace the development of compensatory jurisprudence and its present status in India specially related to the women victims of acid attack,
- To discuss the national and international legal framework dealing with violence against women in general and in particular with acid attacks,

- To discuss the institutional mechanism for implementing the policies and regimes regarding the compensation to the women victims in general and acid attack victims in particular,
- To suggest the measures for improving the legal, administrative, medical, and organizational efficiency in ensuring fair, humane and effective handling of acid attack victims at various stages.

1.4.Hypotheses of Research

Taking into account the research problem and the objectives of the study, as stated above, the following hypotheses have been formulated for this research study:

- Violence against women has increased in present time in forms and magnitude. The cases of acid attacks are rising in India.
- Social, political and economic factors are responsible for the increased incidence of acid attacks.
- The concept of compensatory jurisprudence regarding violence against women in general and for acid attack victims in particular is evolving in India, slowly but steadily.
- Improper implementation of the existing laws, judicial guidelines and the recommendations by the committees are hindrances for ameliorating the condition of women victims of acid attack in India.

1.5.Research Methodology

The study follows a phenomenological research design, a design specifically grounded in Qualitative Methodology. This design has allowed the researcher to accommodate the wide range of experiences that are associated with violence and justice by privileging the voices of women and reading through their stories. A conscious effort has been made to retain qualitative in depth engagement.

A. Primary Data Collection- the primary data collection was done using various methods such as semi-structured, in-depth interviews with key

informants, quasi-participant observations, focused group discussions and documentary research. The researcher visited the **Sheroes Cafe** for short periods over 6 months and engaged the participants to obtain data.

B. Secondary Data Collection- Descriptive, analytical, informative and evaluative methods have been adopted to draw inferences and conclusions. Reliance has been placed on international Documents, National laws and judicial responses. Books, Articles, Journals, opinion pieces, survey reports and materials available on websites were consulted. This work reviews the literature on the problem of violence against women in general and acid attack victim in particular to its prevalence and magnitude. The research work analyzes the provisions in the constitution, in the criminal laws, in the civil laws and in other specific laws relating to the topic. It also critically analyzed the cases, judgments of the Supreme Court and the High Court and recommendations made by the various committees.

1.6. Universe of The Study

The empirical study was conducted in Sheroes Cafes of Uttar Pradesh as Uttar Pradesh is top among the states in acid attacks against women.

1.7. Plan of Study

Chapter I comprises **introduction**, researcher introduced research work and outlined research problem, hypotheses, research methodology and hypotheses testing. Brief of the chapters is also included in this chapter.

Chapter II discusses **forms and magnitude of violence against women**. It discusses definition of violence, proposed by various jurists, United Nation's documents e.g. definition contained in United Nation Declaration 1993, different kinds of violence against women in the United Nation's special report, (1995) on Violence against Women, etc.

Chapter III analyses **causes and consequences of violence against women, a theoretical explanation**, of various types of violence against women and their varied patterns. An analysis of various forms of crimes against women reflects that this is such a complex phenomenon that a single theory does not and

cannot explain all sorts of violence against women. There are numerous factors such as socio-cultural, structural, economic, pathological and psychological responsible for it. Changing social norms and values shape the evolution and typology of violence. Therefore, multifactor theory provides a comprehensive framework to understand the nature and causes of crime against women in India. The reasons for crime against women have been analyzed, so that appropriate measures can be taken. This chapter also explains about acid attack and its causes in detail.

Chapter IV is divided into two parts first part traces the **Chapter IV A concept, origin and development of compensatory jurisprudence** with regard to physical crimes against women victims. Through this chapter researcher has emphasized that it is equally important to provide adequate compensation to the victims and initiate a meaningful rehabilitation program. This chapter also analyses judicial responses against victims of crimes and ***compensatory jurisprudence***.

Second part of **Chapter IV** provides a chronological list of key events of the important legal developments relating to acid attack survivors, compensation since 2006 when Advocate Aparna Bhat filed the Public Interest Litigation **Laxmi vs. Union of India & Ors.**, in the Supreme Court, praying for regulation of the sale of acid to latest **compensation scheme of 2018**. The Code of Criminal Procedure (Amendment) Act of 2008 adopts aspects of the recommendations by the NCW and LCI report of 2008 by adding section 357A to the Code of Criminal Procedure, which requires the States to prepare victim compensation schemes for survivors of crimes “who require rehabilitation.” The Criminal Law (Amendment) Act of 2013 comes into effect, overhauling the Indian Penal Code and Code of Criminal Procedure to address issues of gender-based violence, including provisions imposing more severe criminal sanctions for perpetrators of acid violence and a provision requiring that public and private hospitals provide survivors with free “first-aid or medical treatment”

Chapter V Protection for the violence against women under international and national law provides detailed account of contribution of international organizations like United Nations and other various agencies regarding

eradication of gender based discriminations (violence also Includes discrimination) against women and focuses on the legal development in India in relation to Acid Attack. The acid violence is a form of discrimination prohibited by international human rights law, and States have an obligation to act with due diligence to prevent and adequately respond to acid attacks. This chapter highlights the constitutional and legal provisions as well as incorporation of international provisions in relation to acid violence against women.

Chapter VI recounts experiences of live realities of women survivors of acid violence working in sheroes cafés and deals with the narratives that this study encountered during conversations with women survivors of acid related violence helps a number of themes emerge that further inform the discourse on women lived realities with the violence and its aftermath.

Chapter VII contains conclusion and suggestions. In this chapter, the researcher has given the findings of the study. Some suggestions are given by the researcher to combat the violence of acid attacks.

Chapter - 2

FORMS AND MAGNITUDE OF VIOLENCE AGAINST WOMEN

2.1. Introduction

Violence against women is partly a result of gender relations that assumes men to be superior to women. Given the subordinate status of women, much of gender violence is considered normal and enjoys social sanction. Manifestations of violence include **physical aggression**, such as blows of varying intensity, **burns**, attempted hanging, sexual abuse and rape, psychological violence through insults, humiliation, coercion, blackmail, economic or emotional threats, and control over speech and actions. In extreme, but not unknown cases, death is the result. (Adriana, 1996) These expressions of violence take place in a man-woman relationship within the family, state and society. Usually, domestic aggression towards women and girls, due to various reasons remain hidden.¹

Cultural and social factors are interlinked with the development and propagation of violent behavior. With different processes of socialization that men and women undergo, men take up stereotyped gender roles of domination and control, whereas women take up that of submission, dependence and respect for authority. A female child grows up with a constant sense of being weak and in need of protection, whether physical Social or economic. This helplessness has led to her exploitation at almost every stage of life. The family socializes its members to accept hierarchical relations expressed in unequal division of labor between the sexes and power over the allocation of resources. The family and its operational unit is where the child is exposed to gender differences since birth, and in recent times even before birth, in the form of sex-determination tests

¹Available at:https://www.academia.edu/2359534/Violence_against_women_in_India_A_literature_review (visited on June 6, 2017)

leading to feticide and female infanticide. The home, which is supposed to be the most secure place, is where women are most exposed to violence.²

Violence against women has been clearly defined as a form of discrimination in numerous documents. The World Human Rights Conference in Vienna, first recognized gender-based violence as a human rights violation in 1993. In the same year, United Nations declaration, 1993, defined violence against women as “any act of gender-based violence that results in, or is likely to result in, **physical**, sexual or psychological harm or Suffering to a woman, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or private life”.³

Radhika Coomaraswamy identifies different kinds of violence against women, in the United Nation’s special report, (1995) on Violence against Women⁴;

- a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.
- b) Physical sexual and psychological violence occurring within the general community, including rape, **acid attack**, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.
- c) Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.

This definition added “violence perpetrated or condoned by the State”, to the definition by United Nations in 1993. Coomaraswamy points out that women are vulnerable to various forms of violent treatment for several reasons, all based on gender⁵.

² Ibid.

³ Ibid.

⁴ Available at <https://digitallibrary.un.org> accessed on (July 14, 2018)

⁵ Ibid

- 1) Because of being female, a woman is subject to rape, **acid attacks**, female circumcision/genital mutilation, female infanticide and sex related crimes. This reason relates to society's construction of female sexuality and its role in social hierarchy.
- 2) Because of her relationship to a man, a woman is vulnerable to domestic violence, dowry murder, sati. This reason relates to society's concept of a woman as a property and dependent of the male protector, father, husband, son, etc.
- 3) Because of the social group to which she belongs, in times of war, riots. Or ethnic, caste, or class violence, a woman may be raped and brutalized as a means of humiliating the community to which she belongs. This also relates to male perception of female sexuality and women as the property of men. Combining these types of abuse with the concept of hierarchical gender relations, a useful way to view gender violence is by identifying where the violence towards women occurs.⁶

Essentially, violence happens in three contexts - the family, the community and the state and at each point key social institutions fulfill critical and interactive functions in defining legitimating and maintaining the violence.

- 1) The family socialises its members to accept hierarchical relations expressed in unequal division of labour between the sexes and power over the allocation of resources.
- 2) The community (i.e., social, economic, religious, and cultural institutions) provides the mechanisms for perpetuating male control over women's sexuality, mobility and labour.
- 3) The state legitimizes the proprietary rights of men over women, providing a legal basis to the family and the community to perpetuate these relations. The state does this through the enactment of discriminatory application of the law.⁷

⁶Available at:https://www.academia.edu/2359534/Violence_against_women_in_India_A_literature_review (visited on June 6, 2017)

⁷ Ibid.

Margaret Schuler has divided gender violence into four major categories⁸;

- 1) Overt physical abuse (acid attack, battering sexual assault, at home and in the work place)
- 2) Psychological abuse (confinement, forced marriage)
- 3) Deprivation of resources for physical and psychological well-being (health/nutrition, education, means of livelihood)
- 4) Commoditization of women (trafficking, prostitution)

2.1.1 Physical Violence

Physical violence can be defined as deliberate use of physical means which has the intention or prospective of causing physical harm or even death to the receiver. Physical violence in a broader sense includes hitting, slapping, and biting, choking, throwing, pushing, assault by a weapon, kicking, **burning**, with the use of one person's strength against another person. So it is clear that physical violence includes both injury and burn (either by the blaze or acid). Burning a person by throwing acid is also a type of physical violence that is classified as crime of hurt and grievous hurt under the Indian penal.

According to **Section 319** of the **Indian Penal Code**, whoever causes bodily pain, disease or infirmity to any person is said to cause hurt. The expression 'bodily pain' means that the pain must be physical as opposed to any mental pain.

According to Section 320 of IPC -The following kinds of hurt only are designated as "grievous":—

First - Emasculation

Secondly -Permanent privation of the sight of either eye,

Thirdly -Permanent privation of the hearing of either ear,

Fourthly -Privation of any member or joint,

Fifthly -Destruction or permanent impairing of the powers of any member or joint

⁸ Ibid

Sixthly -Permanent disfiguration of the head or face,

Seventhly -Fracture or dislocation of a bone or tooth,

Eighthly -Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.⁹

Prior to the Criminal Law Amendment Act, 2013, the offenders of crime of acid attack were not effectively prosecuted. The cases were registered under different sections of the Indian Penal Code, particularly under Hurt, Grievous Hurt, Grievous Hurt by corrosive substances, attempt to murder and murder. The cases of acid attacks were tried under the Section 326 which deals with grievous hurt. But this law was not sufficient as it failed to cure the violence of acid attacks. Then, the 226th Law Commission of India proposed the insertion of new Section 326A and 326B into the Indian Penal Code and Section 114 in the Indian Evidence Act. Section 326A lays down the punishment for **acid throwing**. The minimum punishment is 10 years imprisonment and may extend up to life imprisonment with fine. Section 326B makes the attempts of acid throwing punishable with the imprisonment which shall not be less than five years but which may extend to 7 years, and shall also be liable to fine.

2.1.2 Sexual Violence

Forced procreation (penetration) with sexual intents and other forms of sexual compulsion as defined by law come under sexual violence. Sexual violence is categorised as follows-

1. Forceful coercion to make a person involve in a sexual act without his/ her will, the act may or may not be completed.
2. Incomplete or completed sexual act with a person, who is not in a mental condition to understand the act, or to deny to participate, or to tell reluctance to involve in such act, etc., may be due to disability, sickness or due to influence of any sedatives such as drugs or because of any pressure.
3. Abusive sexual contact.

⁹ Available at <https://indiankanoon.org> (visited on June 12, 2019)

2.1.3 Psychological/emotional violence

Acts, threat of acts or forceful tactics which may lead to trauma to the victims constitute the psychological violence. Psychological or emotional abuse involves embarrassing the victim, deciding what the victim can act, deliberate acts which tend to make the victim feel humiliated, creating gap between the victim and his/her social neighborhood, denying the victims the basic rights of accessibility to goods of daily needs, and the list is not comprehensive. If there have been prior instances of threat or acts of physical or sexual violence then the above stated acts strongly advocate about psychological/ emotional violence. There is another form of psychological harassment i.e. stalking. Stalking and harassment is a behaviour that is repeated and unwanted by the victim. The behaviors may seem normal and ordinary, however, when they are repeated they can be menacing and cause alarm and distress to the victim. Stalking includes frequent unwanted contact such as appearing at the victim's home, workplace, telephone calls, text messages, letters, notes, e-mails, faxes, or other contact on social networking sites or even vandalizing victim's personal property.¹⁰

2.1.4 Deprivation or neglect Violence

Violence is the intentional use of physical force or power, threatening against oneself on another person, which either results in or has a high potential of resulting in injury, death, psychological harm, or deprivation or underdevelopment. To neglect is similar to other forms of abuse, is a pattern of behavior which is deprived of -

- Medical care and attention
- Proper supervision
- Availability of help to aid disabled person
- Availability of adequate resources of basic needs and social interactions

Deprivation is generally mistakenly linked with the communities which live below a certain socioeconomic level and where there prevails poverty and unemployment. Neglect is the lack of one's access to resources which are required

¹⁰Available at: <http://www.cdc.gov/violenceprevention/intimatepartnerviolence/definitions.html> (visited on December 4, 2017)

to perform the basic deeds which are must for a person's physical, emotional, safety or esteem needs. Neglect can be, however, seen in every section of society.

Adriana Gomez (Domestic violence act 1996) has also talked about two basic forms of violence, that is; structural and direct. Structural violence arises from the dominant political, economic and social systems, in so far as they block access to the means of survival for large number of people; for example, economic models based on the super-exploitation of thousands for the benefit of a few, extreme poverty in opposition to ostentatious wealth, and repression and discrimination against those who diverge from given norms.¹¹

Structural violence according to her is the basis of direct violence, because it influences the socialization which causes individuals to accept or inflict suffering, according to the social function they fulfill. Open or direct violence is exercised through aggression, arms or physical force. (Larrain and Rodrigue, 1993)¹²

The Fourth Conference of Women, 1995 has defined violence against women as a **physical act of aggression** of one individual or group against another or others. *Violence against women* is any act of gender-based violence which results in, physical, sexual or arbitrary deprivation of liberty in public or private life and violation of human rights of women in violation of human rights of women in situations of armed conflicts. (Conference on Women, Beijing 1995 Country Report).¹³

Violence is an act carried out with the intention or perceived intention of **physically hurting** another person. *Gender Violence* is defined as “any act involving use of force or coercion with intent of perpetuating **promoting hierarchical gender relations**”. (APWLD, 1990, Schuler, 1992)¹⁴

Adding gender dimension to that definition amplifies it to include violent acts perpetrated on women because they are women. With this addition, the definition is no longer simple or obvious. Understanding the phenomenon of

¹¹Available at:https://www.academia.edu/2359534/Violence_against_women_in_India_A_literature_review (visited on June 6, 2017)

¹² Ibid

¹³ Ibid

¹⁴ Ibid

gender violence requires an analysis of the patterns of violence directed towards women and the underlying mechanisms that permit the emergence and perpetuation of these patterns.¹⁵

Liz Kelly (1998) *Surviving Sexual Polity* has defined violence as “any physical, visual, verbal or sexual act that is experienced by the woman or girl at the time or later as a threat, invasion or assault, that has the effect of hurting her or degrading her and/or takes away her ability to contest an intimate contact”.¹⁶

Joanne Little *Gender equality of Lotika sarkar UGC* modified this definition as “any physical, visual, verbal or sexual act that is experienced by the person at the time or later as a threat, invasion or assault, that has the effect of hurting or disregarding or removing the ability to control one’s own behavior or an interaction, whether this be within the workplace, the home, on the streets or in any other area of the community”.¹⁷

The prevalence and incidence of violence is so significant that it has devastating consequences for individuals, families and societies. It leads to physical mental, sexual, and reproductive health problems for individuals and enormous social and economic coast for societies. It is further strongly linked to **other forms of violence** such as child maltreatment. Women live in a very insecure world indeed. Many fall victim to gender selective abortion and infanticide. Others do not receive the same amount of food and medical attention as their brothers, fathers and husbands. Others again fall prey to sexual offenders, to ‘honour killings’ and to **acid attacks**. Let discuss **various types** of violence against women¹⁸:

2.2 Violence against women throughout the life cycle¹⁹

Phase	Type of violence
Pre-birth	Sex-selective abortion; effects of battering during pregnancy on birth outcomes
Infancy	Female infanticide; physical, sexual and psychological abuse

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Dr. Sukanta Sarkar, *Violation of women rights* 2015 p.15.

¹⁹ Available at <http://www.who.int/gender/violence/v4.pdf>. (visited on February 10, 2017)

Girlhood	Child marriage; female genital mutilation; physical, sexual and psychological abuse; incest; child prostitution and pornography
Adolescence and adulthood	Dating and courtship violence (e.g. acid throwing and date rape); economically coerced sex (e.g. school girls having sex with “sugar daddies” in return for school fees); incest; sexual abuse in the workplace rape; sexual harassment; forced prostitution and pornography; trafficking in women; partner violence; marital rape; dowry abuse and murders; partner homicide; psychological abuse; abuse of with disabilities; forced pregnancy
Elderly	Forced “suicide” or homicide of widows for economic reasons; sexual, physical and psychological abuse

2.2.1 Acid throwing

Acid throwing is a form of violent assault defined as the premeditated act of throwing acid or a similarly corrosive substance onto the body of another "with the intention to disfigure, maim, torture, or kill." According to researchers and activists, countries typically associated with acid assault include Bangladesh, **India**, Pakistan, Nepal, Cambodia, Vietnam, Laos, Hong Kong, China, the United Kingdom, Kenya, South Africa, Uganda and Ethiopia. Acid attacks appear to be disproportionately common in South Asia. **India**, Bangladesh and Pakistan also have considerable numbers. The first documented acid violence case in Bangladesh was occurred in 1967. In South Asia, acid attacks have been used as a form of revenge for refusal of sexual advances, proposals of marriage, refusal of love proposals or land disputes and demands for dowry. The most notable effects of an acid attack are the lifelong bodily disfigurement consequently the victim is faced with physical challenges, which require long term surgical treatment, as well as psychological challenges. It requires In-depth intervention from psychologists and counselors at each stage of physical recovery. The medical effects of acid attacks are extensive. As a majority of acid attacks are aimed at face. Acid assault survivors also face many mental health issues upon recovery. In addition to medical and psychological effects, many social implementations exist for acid survivors, especially women.

Many non-governmental organizations (NGOs) have been formed in the areas with the highest occurrence of acid attacks to combat such attacks. In India Acid Survivors Foundation, Acid Survivors Saahas Foundation (Mumbai),

Chhanv Foundation (Noida), Make Love Not Scars (Delhi), Meer foundation (Mumbai) work as a bridge between survivors and the society. In Bangladesh the Acid Survivors Foundation, Nairpokkho, Action Aid, and the Bangladesh Rural advancement committee's Community Empowerment & strengthening Local Institutions Programme assist survivors in Bangladesh. The acid Survivors Foundation in Pakistan operates in Islamabad, offering medical, psychological and rehabilitation support. The Acid Survivors foundation in Uganda operates in Kampala and also provides counseling and rehabilitation treatment to victims of acid attacks.²⁰

2.2.2 Stalking

“Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear,” according to the Department of Justice. Similar to crimes of sexual violence, stalking is about power and control. Stalking laws and definitions differ from state to state. Stalking behavior can take many forms including²¹:

- Making threats against someone, or that person's family or friends
- Non-consensual communication, such as repeated phone calls, emails, text messages, and unwanted gifts
- Repeated physical or visual closeness, like waiting for someone to arrive at certain locations, following someone, or watching someone from a distance
- Any other behavior used to contact, harass, track, or threaten someone

One of the ways perpetrators stalk victims is through the use of technology. You may have heard the term cyber stalking to refer to these types of interactions. “Use of technology to stalk” is a broad term that is used to cover all forms stalking that rely on technology. Some uses of technology to stalk include²²:

²⁰ Dr. Sukanta Sarkar, Violation of women rights 2015 p.15-16.

²¹ Available at <https://www.rainn.org/articles/stalking> (visited on July 14, 2018)

²² Available at <https://www.rainn.org/articles/stalking> (visited on July 14, 2018)

- Persistently sending unwanted communication through the internet, such as spamming someone's email inbox or social media platform
- Posting threatening or personal information about someone on public internet forums
- Video-voyeurism, or installing video cameras that give the stalker access to someone's personal life
- Using GPS or other software tracking systems to monitor someone without their knowledge or consent
- Using someone's computer and/or spyware to track their computer activity

2.2.3 Sexual Harassment

Sexual harassment is abusive, uninvited and unwelcome behavior of a sexual nature, typically in the work/studying place, which may include intimidation, bullying or coercion of a sexual nature, or the inappropriate promise of rewards in exchange for sexual favors. It can be **verbal or physical**, and it is often perpetrated by a person in a position of authority against a subordinate. In the United States, sexual harassment is a form of discrimination which violates Title VII of the Civil Rights Act of 1964. The Council of Europe Convention on preventing and combating violence against women and domestic violence defines sexual harassment as: *"any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment."*²³

2.2.4. Breast Ironing-

Breast Ironing is the pounding and messaging of a pubescent girl's breasts, using hard or heated objects, to try to make them stop developing or disappear. It is typically carried out by the girl's mother who will say she is trying to protect the girl from sexual harassment and rape, to prevent early pregnancy that would tarnish the family name, or to allow the girl to pursue education rather than be forced into early marriage. Breast ironing is practiced in all ten regions of

²³Available at <https://www.womenwikipedia.org/wiki/women-in-christinty>. (visited on March 1, 2014).

Cameroon and has also been reported across West and Central Africa. Breast “sweeping” has been reported in South Africa. Breast ironing is extremely painful and can cause tissue damage. There have been no medical studies on its effects. However, medical experts warn it might contribute toward breast cancer, cysts and depression, and perhaps interfere with breastfeeding later. Other possible side-effects reported by GIZ include breast infections, the formation of malformed breasts and the eradication of one or both breasts.²⁴

2.2.5 Bride Burning

Bride burning is a form of domestic violence in which a bride is killed at home by her husband or husband’s family due to this satisfaction over the dowry provided by her family. The act is often a result of demands for more for prolonged dowry after the marriage. Kerosene is most often used as a fuel. It is not the same as the ancient custom of Sati formally abolished in 1829, where a widowed woman was forcibly or voluntarily placed on the burning pyre of her dead husband and burnt to death. Burning normally occurs in India where the majority of the cases are reported. The more highly educated communities in India such as New Delhi are guilty of committing this crime far more often than lesser educated communities. Most of the cases in India come from the northern part of India. Bride burning also occurs in places such as Pakistan and Bangladesh. In the Indian subcontinent, including Bangladesh and Pakistan it is reported that “*dowry death*” often called “*bride burning*”, happens once every hundred minutes and there are between 4000 and 25000 victims. According to statistics recently released by National crime record Bureau in 2010, 8391 dowry death cases were reported across India meaning a bride was burned every 90 minutes. A decade earlier this number was 6995, but climbed to 8093 dowry death in 2007. In 1961, India enacted the dowry prohibition act to halt dowry murders. Women and girls must be educated so that they know about their rights and can become economically independent. Then there must be opened more shelter that can provide help and protection for this woman. Something that also would be useful is if the Shelters would be given authorization to claim on behalf of the victim even if the family refuses to go to court. Children must be educated in

²⁴ Dr. Sukanta Sarkar, ‘Violation of women rights’ 2015 p.16-17.

morals and ethics so that the younger generation will learn to respect each other and solve conflicts without the act of violence. The media must increase awareness and publicize tragedies to help change the public perception on dowry violence, and for this, the censorship must be free.²⁵

2.2.6 Dating abuse

Dating abuse is defined as the perpetration or threat of an act of violence by at least one member of an unmarried couple on the other member within the context of dating or courtship. This abuse/violence can take a number of forms: sexual assault, sexual harassment, threats, **physical violence**, verbal, mental or emotional abuse, Social Sabotage, and stalking. Date rape is the modern version of dating abuse. Date rape refers to rape committed by a person, who could be a friend, acquaintance or stranger, against of victim. Commonly, date rape is referring to drug facilitated sexual assault or an acquaintance rape. Acquaintance rape is an assault or attempted assault usually committed by a new acquaintance involving sexual intercourse without consent. The most common drug used in sexual assault is alcohol. It is estimated that about half of all sexual assault victims were under the influence of alcohol at the time of the assault. A drug facilitated sexual assault is one evolving the victim consuming alcohol or taking drugs. The alcohol or drugs may be knowingly or unknowingly consumed by the victim. The drugs can be any substances that affect the central nervous system (CNS). This includes street drugs (e.g. cocaine, marijuana, ecstasy, GHB), prescription drugs (e.g. anti-depressants, tranquilizers), and over-the-counter medicines (e.g. cough syrup).²⁶

2.2.7 Domestic Violence

Domestic violence is a pattern of behaviour which involved the abuse by one partner against another in an intimate relationship such as marriage, cohabitation, dating or within the family. There are five types of domestic violence: physical, sexual, psychological, emotional, and economic. Domestic violence may start when one partner feels the need of control and dominate the other. Abusers may feel this need to control their partner because of low self-

²⁵ Ibid p.17-18.

²⁶ Dr. Sukanta Sarkar, Violation of women rights 2015 p.18.

esteem, extreme jealousy, difficulties in the regulating anger and other strong emotions or when they feel inferior to the partner in education and socioeconomic background. Domestic violence against women by men is 'caused' by the misuse of power and control within a context of male privilege. Male privilege operates on an individual and societal level to maintain a situation of male dominance, where men have power over women and children. Domestic violence in India is endemic and widespread predominantly against women. It is difficult to estimate the prevalence of violence against women due to the inconsistency in definitions, under reporting, and lack of epidemiological studies concerning the subject. However available statistics from around the globe indicate that one out of every three women experiences violence in an intimate relationship at some point in her life. In Pakistan, Domestic Violence is considered a private matter, as it occurs in the family and therefore not an appropriate focus for assessment, intervention or policy changes. Women have to face discrimination and violence on a daily basis due to the cultural and religious norms that Pakistani society embraces. Serious health problems often result from physical emotional and sexual form of domestic violence. Physical injury is the most visible form of domestic violence. The scope of physical domestic/intimate partner violence includes slapping, pushing, kicking, biting, hitting, throwing objects, strangling, beating, threatening with any form of weapon, or using a biting. Emotional abuse has been gaining more and more recognition in recent years as an incredibly common form of domestic violence. The act of domestic violence towards women is a human rights violation as well as an illegal act under Indian law. Domestic violence should not happen to anybody. The domestic violence act of 2005 provides victims of abuse with the means for practical remedy through prosecution.²⁷

2.2.8 Marital rape

Marital rape is a serious form of violence that can have life shattering effects for its victim. It is nonconsensual sex in which the perpetrator is the victim's spouse. It is a form of partner rape, of domestic violence, and of sexual abuse. Still in many countries spousal rape either remains legal or is illegal but widely tolerated with the laws against it being rarely enforced. Rape by a spouse,

²⁷ Dr. Sukanta Sarkar, Violation of women rights 2015 p.18-19.

partner or ex-partner is more often associated with physical violence. Attributing the effects of marital rape in research is problematic as it is nearly impossible to find a large enough sample of spouses to study who have experienced sexual violence but have not also been physically assaulted by their spouse. In the case of rape by a spouse or long term sexual partner the history of the relationships affects the victim's reactions. Whether it takes place once or is part of an established pattern of domestic violence, trauma from rape has serious long-term consequences for victims regardless of whether the assault is prosecuted or not. As the concept of human rights has developed, the belief of a marital right for sexual intercourse has become less widely held.²⁸

2.2.9 Honor killing

Honor killing is the homicide of a member of a family or social group by other members, due to the belief of the perpetrators that the victim has brought dishonor or shame upon the family or community. Victims of honor killings are killed for reasons such as refusing to enter an arranged marriage being in a relationship that is disapproved by their relatives, having sex outside marriage, becoming the victim of rape, dressing in ways which are deemed inappropriate, for engaging in homosexual relations. Honor killings are one of the most psychologically Complex, sociologically complicated, morally distressing and legally challenging violent crimes against humanity. Such crimes have been happening throughout history all over the world in many communities, countries and cultures. In honor killings victim are mostly women and murderers are mostly men whether fathers, brothers, husbands or sons. Honor killings are directed mostly against women and girls. The perceived dishonor is normally the result of one of the following behaviours, or the suspicion of such behaviors: (a) dressing in a manner unacceptable to the family or community (b) wanting to terminate or prevent an arranged marriage or desiring to marry by own choice, (c) engaging in heterosexuals sexual acts outside marriage or even due to a non-sexual relationship perceived as inappropriate, and (d) engaging in homo sexual acts. Women and girls are killed at a much higher rate than men. The number of honor killings has been increasing rather than decreasing in many parts of the world.

²⁸ Ibid 19-20.

Every year thousands of innocent women are killed all over the world. Honor killings have been reported in Northern regions of India, mainly in the Indian states of Punjab, Rajasthan, Haryana, Uttar Pradesh as a result of people marrying without their family's acceptance, and sometimes for marrying outside their caste or religion. In contrast, honor killing, are rare to non-existent in South India and the western Indian states of Maharashtra and Gujarat. Haryana is also notorious for incidents of honor killing mainly in the upper caste of society, among rajput and jaats.²⁹

2.2.10 Female genital mutilation

Female genital mutilation (FGM) is Defined by the World Health Organization (WHO) as “*all procedures that involve partial or total removal of external female genitalia or other injury to the female genital organs for non-medical reasons.*” that WHO estimates that 140 million women and girls around the world have experienced the procedure including 101 million in Africa. It may take place in a hospital but is usually performed without and anesthesia by a traditional circumciser using a knife, razor or scissors. The WHO offers for classifications of FGM. Type I is removal of the clitoris and clitoral hood, and Type II the removal of the clitoris and inner labia. With Type III, all or part of the inner and Outer labia are removed and the wound is left to close; a small hole remains for the passage of urine and menstrual blood and the wound is later opened for intercourse and childbirth. According to the WHO, 140 million women and girls are living with the effects of the procedure, including 101 million girls over the age of ten in Africa, where the practice persists in 28 countries. Around 85 percent of women who undergo FGM experience type I and II; type III is predominant in Djibouti, Somalia and Sudan and in parts of Eritrea, Ethiopia and Mali. Type IV refers to miscellaneous procedures such as symbolic piercing of the clitoris on labia, cauterization of the clitoris, and cutting into the vagina to widen it. Although genital cutting is on the decline the practice remains “*almost Universal*” in some countries. Africa has the greatest amount of FGM, as the World Health Organization believes that somewhere between 100 million and 140 million women and girls about have undergone the surgery throughout the world,

²⁹ Dr. Sukanta Sarkar, Violation of women rights 2015 p.20-21.

92 million of them over the age of ten living in Africa. It has been outlawed in Britain, Canada, France, Norway, Sweden, Switzerland and the United States. The tradition involves removal of some or all of a female's external genitalia. It can include cutting out the clitoris and sometimes sewing together the labia. Laws are not enough to stop the practice entirely and more people must speak out in order to eliminate it among certain ethnic groups and communities.³⁰

2.2.11 Femicide

Femicide is broadly defined as the Killing of women but definitions vary depending on the cultural context. Feminist author, Diana Russell, narrows the definition of femicide to “*the Killing of females by males because they are female.*” the manifestations of femicide vary greatly. Intimate partner femicide sometimes called intimate femicide, refers to “*the Killing of a woman by her intimate partner or her former intimate partner.*” These include former or current boyfriends, husbands and common-law husbands. Globally, South Africa, with the highest female murder rate, experiences intimate partner femicide every 6 hours. Spain, on the other hand, reports an intimate partner femicide rate of 1 woman every 2 days. Yearly, India’s government report reports the deaths of 5,000 women to this cause, but this number is believed to be grossly underestimated due to the under reported prevalence of honor killings and dowry related murders. One of the main motives that cause men to kill their intimate partners is jealousy, which Jacquelyn Campbell argues is the male efforts to control and possess women to display ownership and reinforce patriarchy. Risk factors that increase the likelihood of intimate partner femicide include: when a male has previously threatened to commit suicide or kill the women if she cheats/leaves him, when there is elevated alcohol or drug abuse by either partner, or when a male attempts to control a women’s freedom. The presence of firearms within home is a large factor in intimate partner femicide, and worldwide firearms are used in one third of all femicides. Factors that decrease the risk of intimate partner femicide include a separate domicile for women, a university education as well as societal factors such as more police as well as mandated arrest for violation of restraining Orders related to intimate partner violence. Every year

³⁰ Dr. Sukanta Sarkar, Violation of women rights 2015 p.21-22.

66,000 women are violently killed globally. The rates of femicide differ depending on the specific country. Worldwide, the ratio of murdered women to men is 5:1, but in countries with lower homicide rates this ratio eventually narrows to 1:1. Femicide in the United States accounts for the deaths of 4 Women daily. Gun availability in the United States has also had a substantial effect on femicide. Geographically, the highest prevalence of femicide occurs in the southeast and Southwest areas of the country. The perpetrators of femicide are most often the husbands of the murdered women, followed by boyfriends, including extramarital ones. Women in many Latin American countries are exposed to a heightened level of vulnerability due to unsafe environments, poverty, narcotraffic, organized crime and militarized post conflict situation. Femicide in Africa occurs in many different forms including intimate partner femicide mass femicide due to AIDS, honor killings and mass femicide due to female genital mutilations. The continent varies in cultural practices greatly and the manifestations of femicide differ greatly depending on the country.³¹

2.2.12 Forced abortion

Forced abortion occurs when a woman undergoes an abortion against her own wishes. Coercion often involves the threat of physical harm, blackmail or other acts in order to force a pregnant girl or women to have an abortion. Forced abortion may occur when the perpetrator causes abortion by force, threat or coercion, or by taking advantage of women's incapability to give her consent. This may also include the instances when the conduct was neither justified by medical or hospital treatment. It may include a physical invasion of female reproductive organs. Pregnancy is a vulnerable time for women. The threat of forced abortion greatly increases her vulnerability physically, emotionally and mentally. Pregnant women have a right to be safe and protected from any threat of violence or coercion. Forced abortions associated with administration of the one-child policy have occurred in the People's Republic of China. They are a violation of Chinese law and are not official policy. There are various incidences of forced abortion by untrained doctors. Over 100 potential complications have been associated with induced abortion. "Minor" complications include: minor

³¹ Dr. Sukanta Sarkar, Violation of women rights 2015 p.22-23.

infections, bleeding, fevers, chronic abdominal pain, Gastro intestinal disturbances, vomiting and RH sensitization. The nine most common “major” complications are infection, excessive bleeding, embolism, ripping or perforation of the uterus, anesthesia complications, convulsions, hemorrhage, cervical injury, and endotoxic shock. A growing Body of Evidence indicates that most abortion involve coercion. Coercion may be direct, indirect or both, often happening at once during narrow windows of vulnerability or duress. It may involve deceptive, conflicted or profit-driven counseling. It may include pressure from one’s support network or authorities; negligent Medical and professional practices; or abuses of power in various sectors of society. Coercion may happen in schools, medical offices, or even in the helping professions. In other cases, it may involve personal, emotional, financial or other forms of blackmail, threats, abuse or violence. The emotional side effects of an abortion will vary from one woman to another. Emotional and psychological effects are more common than physical side effects and can range from mild regret to more serious complications like depression.³²

2.2.13 Force pregnancy

Forced pregnancy is the practice of forcing a women to become pregnant, often as a part of a marriage, or as part of a program of breeding slaves or as part of a programme of genocide. Rape, sexual slavery and related actions including forced pregnancy and sexual slavery are now recognized under the Geneva Convention as crime against humanity and war crimes; in particular from 1949 article 27 of the fourth Geneva Convention and later also the 1977 additional protocols to the 1949 Geneva conventions explicitly prohibit wartime rape and enforced prostitution. The Rome Statute explanatory memorandum which defines the jurisdiction of the International Criminal Court recognizes rape, sexual slavery, forced prostitution and forced pregnancy among others, as crime against humanity if part of a widespread or systematic practice. The international criminal Tribunal for Rwanda identified rape as capable of amounting to genocide when used systematically or on a mass scale to destroy a people; later the international

³² Ibid p.24-25.

criminal Tribunal for the former Yugoslavia also categorized rape as capable of being a crime against humanity.³³

2.2.14 Forced prostitution

Forced prostitution is the act of performing non-voluntary sexual activity due to coercion by a third party. There are a wide range of entry routes into prostitution ranging from “*voluntary and deliberate*” entry, “*semi voluntary*” based on pressure of circumstances, and “involuntary” recruitment via outright force or coercion. It refers to conditions of control over a person who is coerced by another to engage in sexual activity. Internationally, the most common destinations for victims of human trafficking are Thailand, Japan, Israel, Belgium the Netherland Germany, Italy, Turkey and the United States, according to a report by the UNODC. The major sources of trafficked persons include Thailand, China, Nigeria, Albania, Bulgaria, Belarus, Moldova, and Ukraine. Due to the illegal nature of prostitution and the different methodologies used in separating forced prostitution from voluntary prostitution the extent of this phenomenon is difficult to estimate accurately. With regard to prostitution three worldwide exist: abolitionism (Where the prostitution is considered a victim), regulation (where the prostitute is considered a worker) and prohibitionism (where the prostitute is considered a criminal). Currently in the Western world, two main tendencies oppose Each Other: abolitionism and regulation. All forms of involuntary prostitution are regarded as an offence under customary law in all countries. While the legality of adult prostitution varies between different parts of the world, the prostitution of children is illegal nearly everywhere in the world. In 1949, the UN General Assembly adopted the convention for the Suppression of the traffic in persons and of the exploitation of the prostitution of others. This convention supersedes a number of earlier conventions that covered some aspect of forced prostitution. It penalizes the procurement and enticement to prostitution as well as the maintenance of brothels.³⁴

³³ Ibid p.25-26.

³⁴ Ibid p.26-27.

2.2.15 Human trafficking

Human trafficking is the trade in humans; most commonly for the purpose of sexual slavery, forced labor or for the extraction of organs or tissues, including surrogacy and ovum removal. Tens of thousands of people are vulnerable to being trafficked in Southeast Asia. A 2012 UN office on Drugs and Crime (UNODC) report on human trafficking recorded more than one 10,000 cases of trafficking in persons in South Asia, East Asia and the Pacific between 2007 to 2010. Malaysia is a destination, and to a lesser extent, a source and transit country for women and children subjected to trafficking in persons, specifically conditions of forced prostitution. The majority of trafficking victims are foreign workers who migrate willingly to Malaysia from Indonesia, Nepal, India, Thailand, China, the Philippines, Burma.

Human trafficking in India, whilst illegal under Indian law remains a significant problem. People are frequently illegally trafficked through India for the purpose of commercial sexual exploitation and forced/bonded labor. India is a destination for women and girls from Nepal and Bangladesh trafficked for the purpose of commercial sexual exploitation. Indian women are trafficked to the Middle East for commercial sexual exploitation. Indian migrants who migrate willingly every year to the Middle East and Europe for work as domestic servants and low skilled labourers may also be part of the human trafficking industry. Human trafficking in India results in women suffering from both mental and physical issues. Bhutan is a source of transit country for human trafficking. Women are trafficked from Bhutan to other countries for commercial sexual exploitation.

International pressure to address trafficking in women and children became a growing part of the social Reform movement in the United States and Europe during the late 19th century. International legislation against the trafficking of women and children began with the conclusion of an International Convention in 1901, followed by conclusion of the International Agreement for the suppression of the White Slave Traffic in 1904. The League of Nations formed in 1919, took over as the international coordinator of legislation intended to end the trafficking of women and children. In 1949, the first international protocol dealing

with sex slavery was the 1949 UN Convention for the Suppression of the Traffic in persons and exploitation of Prostitution of others. The Other are (a) Supplementary Convention on the Abolition of Slavery, entered into force in 1957, and (b) Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, entered into force in 1964.³⁵

2.2.16 Bride Purchasing

Bright purchasing is the illegal industry of trade off “purchasing a bride” to become property and at times as property that can be resold or repurchased for reselling. Bride purchasing or bride selling is practiced by bride sellers and bride buyers in parts of countries such as India and China, among others. The practice is described as a form of “marriage of convenience”. Bride buying is an old practice in many regions in India. It is common in the states of India such as Haryana, Jharkhand, and Punjab. It is also an old tradition in China. A cultural preference for sons over daughters has skewed India’s sex ratio in places like Haryana. As a result of female foeticide, there are about 861 women for every 1000 men in Haryana. Decades of unchecked sex-selection abortions have made the once fertile States of Punjab and Haryana suffer a draught of brides, making human trafficking lucrative and expanding trade. Often projected as a voluntary marriage, every year, thousands of young women and girls are lured into the idea of a happy married life with a rich man in Punjab or Haryana.

The long term solution to the problem is literacy and awareness. There is a need to change the mind-sets of the people regarding the girl child. Strong penal measures need to be adopted against killing and trafficking of girl child. To curb the exploitation against these brides both government and human rights NGOs have an important role to play. While the government can come up with stricter and more effective laws against women exploitation, NGOs can help with the awareness and implementation part.³⁶

³⁵Dr. Sukanta Sarkar, Violation of women rights 2015 p.28-30.

³⁶Ibid p.30-31.

2.2.17 Murder of pregnant women

Murder of pregnant women is a type of homicide often resulting from domestic violence. Domestic violence is suffered by many people and in the majority of cases where the victim comes forward the victim is a woman. For many of these women the fear of harm includes not just themselves but their unborn child as well. Pregnancy-associated that has become more commonly termed as pregnancy-associated homicide. The Killing of a pregnant woman is horrifying enough. When a woman gets pregnant she generally worries about the Health of herself and the baby. She may think of things like preeclampsia gestational diabetes or ectopic pregnancy. According to a new study from Georgia Health Sciences University leading causes of death in pregnant and Postpartum women is a lot more violent than that it's homicide and suicide. The Unborn victims of Violence Act, passed in 2004, defines a fetus as a "*child in uterus*" and a person as being a legal crime victim "*if a fetal injury or death occur during the commission of a federal violent crime.*" In the U.S., 36 States have laws with more harsh penalties if the victim is murdered while pregnant.³⁷

2.2.18 Rape

Rape is a type of sexual assault usually involving sexual intercourse which is initiated by one or more person against another person without that person's consent. The act may be carried out by physical force, coercion abuse of authority or against a person who is incapable of valid consent, such as one who is unconscious, incapacitated or below the legal age of consent. In any allegation of rape, the absence of consent to sexual intercourse on the part of the victim is critical. the United Nations office on Drugs and Crime defines it as "*sexual intercourse without valid consent*" and the World Health Organization defined it in 2002 as "*physically forced or otherwise coerced penetration - even if slight- of the vulva or anus, using a penis, other body parts or an object.*" There are several types of rape generally categorized by reference to the situation in which it or occurs, the sex or characteristics of the victim, and/or the sex or characteristics of the perpetrator. Different types of rape include date rape, gang rape, marital rape, incestual rape, child sexual abuse, prison rape, acquaintance rape, war rape and

³⁷ Ibid p.31-32.

statutory rape. Date rape refers to rape committed by a person, who could be a friend, acquaintance or a stranger, against a victim. Marital rape is nonconsensual sex in which the perpetrator is the victim's spouse. It is a form of partner rape of domestic violence and of sexual abuse. Prison rape refers to rape occurring in prison. It has come into common usage to refer to rape of inmates, by other inmates and less commonly to the rape of inmates by staff, and even less commonly rape of staff by inmates. The term "*statutory rape*" is used in some common law jurisdiction to refer to sexual activities in which one person is below the age required to legally consent to the behavior. In statutory rape, overt force or threat need not be present. Statutory rape laws are based on the premise that until a person reaches a certain age, that individual is legally incapable of consenting to sexual intercourse. War rapes are rapes committed by soldiers other combatants or civilians during armed conflict or war, or during military occupation. It is distinguished from sexual assaults and rape committed amongst troops in military service. During war and armed conflict, rape is frequently used as a means of psychological warfare in order to humiliate the enemy. It is often systematic and thorough, the military leaders May actually encourage their soldiers to rape civilians. It may occur in a variety of situations, including institutionalized sexual slavery, war rape associated with specific battles or massacres, and individual or isolated acts of sexual violence. Prosecution of rapists in war crime tribunals is a recent development.³⁸

2.2.19 Sati

Sati is described as a Hindu custom in India. Sati as per Hinduism is a woman who is fully dedicated to her husband. The concept of Sati is connected with burning when Sati, the wife of Lord Shiva burnt herself in the Yagya fire at her parent's house, because her husband was insulted by Daksha, her father. The Sati system was a long run evil prevailing in Indian society up to the British rule. It was a social funeral practice among some Indian communities in which recently widowed women would immolate herself to her husband's funeral pyre. Those who jump out of fire were stopped by Stoning and hitting. It was believed that if the women get alive then it was regarded as bad women so people tried to kill her.

³⁸ Ibid p.32-33.

There aren't exact figures about the number of Sati incidences. In general, before this custom was outlawed in 1829 there are few hundred officially recorded incidences each year. Even after the custom was outlawed, this custom did not vanish completely. It took few decades before this custom almost vanished. But still there are rare incidences in which the widow demands to voluntarily commit herself. In 1987, a 18 years old widow committed Sati in a village of Rajasthan with the blessings of her family members. In this incidence the villagers took part in the ceremony, praising and supporting the widow of her act. The British, due to the effort of Hindu reformers like Raja Ram Mohan Roy outlawed this custom in 1829. From about 1812, the Bengali reformer Raja Ram Mohan Roy started his own campaign against the practice. He was motivated by the experience of seeing his own sister-in-law commit Sati. Among his actions, he visited Kolkata cremation Grounds to persuade widows not to so die formed watch groups to do the same, and wrote and disseminated articles to show that it was not required by scripture. He not only abolished this practice but also did many other works for the upliftment of women; he setup Brahma Samaj in 1828 etc. By the end of the 18th century the practice had been banned in territories held by some European powers. The Portuguese banned the practice in Goa by about 1515. The Dutch and the French banned it in Chinsurah and Pondicherry, their respective colonies. The British, who by then ruled much of the subcontinent, and the Danes, who held the small territories of Tranquebar and Serampore, permitted it until the 19th century.³⁹

2.2.20 Sexual slavery

Sexual slavery is the slavery of unwilling people for sexual exploitation. It is particular form of enslavement which includes limitation on one's autonomy, freedom of movement and power to decide matters relating to one's sexual Activity. The crime also includes forced marriages domestic servitude or other forced labor that ultimately involves forced sexual activity. Sex trafficking is a type of human trafficking involving the recruitment, transportation, transfer, harbour or receipt of persons, by coercive or abusive means for the purpose of sexual exploitation. It is not the only form of human trafficking and estimates vary

³⁹ Ibid p.34-35.

as to the percentage of human trafficking which is for the purpose of transporting someone into sexual slavery. Commercial sexual exploitation of children (CSEC) includes prostitution of children, child pornography, child sex tourism, trafficking of children for sexual purposes or other forms of transaction sex with children. The prostitution of children is a form of commercial sexual exploitation of children in which a child performs the services of prostitution usually for the financial benefit of an adult. Child pornography sometimes referred to as ‘*child abuse images*’ refers to images or films depicting sexually explicit activities involving a child. As such child pornography is a visual record of child sexual abuse. Most, if not all, forms of forced prostitution may be viewed as a kind of sexual slavery. The terms “*forced prostitution*” or “*enforced prostitution*” appear in international and humanitarian convention but have been insufficiently understood and inconsistently applied. “*Forced prostitution*” generally refers to conditions to control over a person who is coerced by another to engage in sexual activity.⁴⁰

2.2.21 Sexual violence

Sexual violence is a serious public health and human rights problem with both short and long-term consequences on a woman’s physical, mental and sexual and reproductive health. Whether sexual violence occurs in the context of an intimate partnership, within the larger family or community structure, or during times of conflict, it is a deeply violating and painful experience for the survivor. All kinds of gender violence are still ubiquitous, and a disgrace of global efforts to expand the ideas about human rights. A series of high profile rape cases involving girls foreign tourist and physiology student who died following a brutal gang rape has hit India’s reputation. In India rape, sexual harassment and abuse of women are common occurrences that go unspoken due to social stigma or fear of Retribution. Sexual violence has a profound impact on physical and mental health. As well as causing physical injury it is associated with an increased risk of a range of sexual and reproductive health problems with both immediate and long term consequences. It may also be used to punish people for transgressing social and moral codes for instance those prohibiting adultery or drunkenness in public. Data

⁴⁰ Ibid p.35-36.

on sexual violence typically come from police clinical settings non-governmental organizations and survey research. Coerced sex may result in sexual gratification on the part of the perpetrator, though its underlying purpose is frequently the expression of power and dominance over the person assaulted. Apart from physical force, it may involve psychological intimidation, blackmail or other threats.⁴¹

2.2.22 Violence against prostitutions

Violence against prostitution is very common they are at high risk of violent crime, probably at higher risk of occupational mortality than any other group of women ever studied. Perpetrators include violent clients, pimps and corrupt law enforcement officers. Prostitutes themselves often take their clients to out of the way place where they are less likely to be interrupted which is very convenient for their attackers. Being criminals in most jurisdictions, prostitutes are less likely than the law abiding to be looked for by police if they disappear, making them favored targets of predators. While woman who work on the streets are the most likely to be victimized attacks and even murders on prostitutes have also occurred in licensed brothels. Prostitutes (particularly those engaging in street prostitution) are also sometimes targeted by serial killers, who may consider them easy pickings and less likely to be missed, or who used the religious and social stigma associated with prostitutes as jurisdiction justification for their Murder.⁴²

2.3. Magnitude of Violence against Women

To further visualize what this means for the **magnitude of the violence**/crime against women in India, the statistics of National Crime Records Bauru 2016 is given. Following data shows that over a period of time the crime against women has increased. There is a decline only in dowry deaths whereas virtually all types of crime against women have increased. Not only has there been a rise in the crime but the rate of growth of crime has also been rising over the

⁴¹ Dr. Sukanta Sarkar, Violation of women rights 2015 p.36.

⁴² Ibid p.37.

years except in case of dowry deaths. For instance, the rate of growth of **acid attacks** has risen from 2014(203) to 2017(283)⁴³.

As many as 39 crimes against women were reported every hour in India, up from 21 in 2007, according to Crime in India Report 2016 by National Crime Records Bureau. The rate of crime against women, crimes per 100,000 female populations, was 55.2 in 2016, up from 41.7 in 2012.⁴⁴

“Cruelty by husband or his relatives” was the most reported crime against women, accounting for 33% of all crimes in 2016. Rape accounted for 11% of all crimes against women with 38,947 cases reported in 2016, or four every hour. The year 2016 saw the lowest conviction rate (18.9%), percentage of cases convicted to cases in which trials were completed by the courts, for crimes against women in a decade. As many as 2.5 million crimes against women have been reported in India over the last decade. Reported cases of crime against women increased 83% from 185,312 in 2007 to 338,954 in 2016. “More than the increase in crime rate, it is increase in reporting”.⁴⁵



Source: National Crime Records Bureau 2016; Previous Publications

⁴³ Available at <https://www.chhanv.org> (Visited on July 13,2018)

⁴⁴ Available at <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/NEWPDFs/Crime%20in%20India%20%202016%20Complete%20PDF%20291117.pdf> (visited on July 13, 2018)

⁴⁵ Ibid.

Note: Prior to 2012, the crime rate was calculated on the basis of the population of India and state/union territory. From 2012, it is calculated based on the female population (incidences of crimes against women/female population x 100,000 female population).

2.3.1 Delhi reported highest crime rate against women

The union territory of Delhi reported the highest crime rate, 160.4 against the national average of 55.2. Delhi was followed by Assam (131.3), Odisha (84.5), Telangana (83.7) and Rajasthan (78.3). Uttar Pradesh, India's most populous state, reported the most (15%) crimes against women in 2016, 49,262, or six every hour. UP was followed by West Bengal (32,513), Maharashtra (31,388), Rajasthan (27,422) and Madhya Pradesh (26,604).⁴⁶

As many as 13,803 crimes against women were reported in Delhi city, or 38 every day, topping the list among 19 cities with populations more than 2 million in 2016. Delhi city had the worst crime rate, 182.1 crimes per 100,000 women, against the national average of 77.2.

2.3.2 Cruelty by husband/relatives most reported crime against women in 2016

“Cruelty by husband or his relatives” was the most reported crime against women, accounting for 33% of all crimes in 2016, 110,378 cases or 13 crimes every hour. Cases reported under this crime head increased 45% from 75,930 in 2007. Cruelty by husband/relatives was followed by cases reported under “assault on women with intent to outrage her modesty” (25%), “kidnapping & abduction of women” (19%) and “rape” (11%).⁴⁷

West Bengal reported the most cases of “cruelty by husband or his relatives” in 2016–19, 302, or two every hour. Assam had the highest crime rate (58.7) in 2016 compared to the national average of 18. As many as 84,746 cases of “assault on women with intent to outrage her modesty” were reported in 2016, or 10 cases every hour. Maharashtra reported the most cases in 2016–11, 396, or

⁴⁶ Available at <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/NEWPDFs/Crime%20in%20India%20%202016%20Complete%20PDF%20291117.pdf> visited on 13/7/18

⁴⁷Ibid

one every hour. Delhi UT was the most awful in crime rate (43.6), against the national average of 13.8.⁴⁸

Crimes included under “assault on woman with intent to outrage her modesty” include relatively more serious crimes such as ‘sexual harassment’, ‘assault or use of criminal force to women with intent to disrobe,’ ‘stalking’ and ‘voyeurism’. The most cases under “kidnapping and abduction of women” were registered in Uttar Pradesh (12,994) with 65,519 cases nationwide; Delhi reported the highest crime rate (40.7) in 2016.⁴⁹

2.3.3 Four rape cases reported every hour in 2016

Four rape cases were reported every hour in the country in 2016, up from two every hour in 2007. Madhya Pradesh registered the most cases (4,882), while Sikkim reported the highest crime rate for rape (30.3). The nationwide crime rate was 6.3. Reported rape cases have increased 88% from 20,737 in 2007 to 38,947 in 2016. Of 39,068 rape victims in 2016, 43% were girls below 18 years. Offenders were known to the victim in 95% reported cases. Of these, 29% were “neighbours”, “known persons on promise to marry the victim” (27%) and “other known persons” (30%).⁵⁰

Delhi topped the list for most rapes reported among 19 cities with populations more than two million in 2016-1,996, or five every day. The city also ranked first in terms of crime rate (26.3 cases per 100,000 women) for rape, against the national average of 9.1.⁵¹

2.3.4 Conviction rate for crime against women lowest in decade

At 18.9%, the conviction rate for crimes against women in 2016, as the data reveals, was the lowest since 2007.

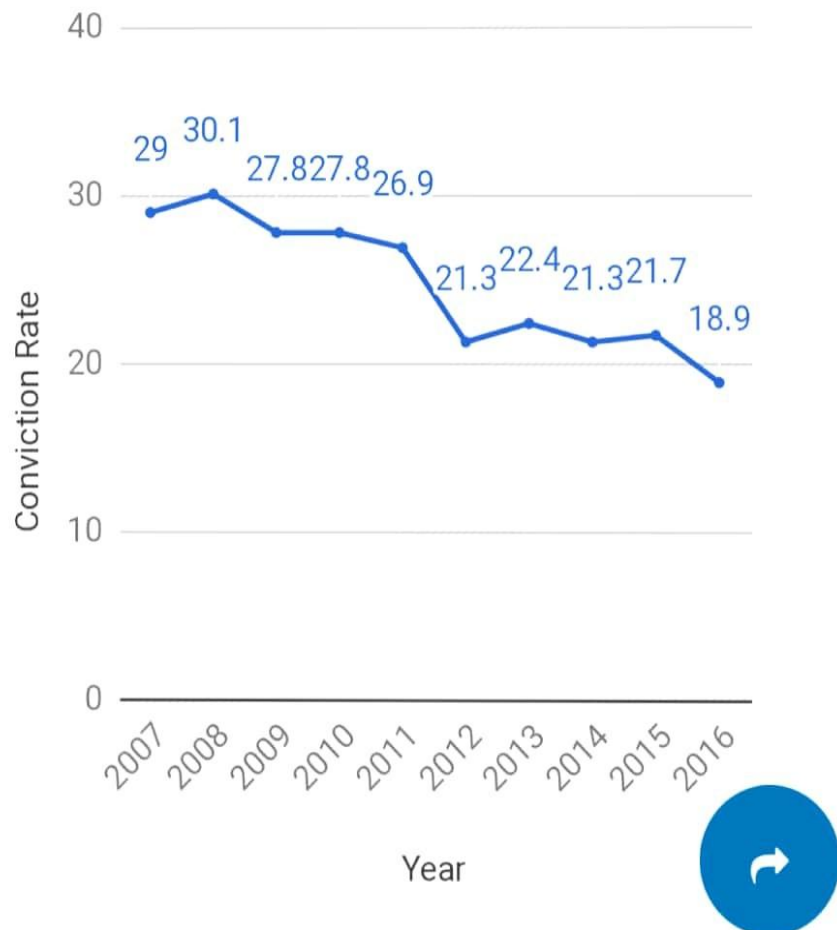
⁴⁸Ibid.

⁴⁹Ibid.

⁵⁰Ibid.

⁵¹Ibid.

Crime Against Women: 2016 Had Lowest Conviction Rate In Decade



Source: [National Crime Records Bureau 2016](#); Previous Publications

West Bengal, which registered the second most number of crimes in 2016, reported the lowest conviction rate (3.3%). Mizoram reported the highest conviction rate (88.8%) in 2016, followed by Meghalaya (67.7%), Puducherry (62.5%), Uttar Pradesh (52.6%) and Uttarakhand (46.2%). In 2016, one in four rape cases in India ended in conviction—the lowest since 2012.⁵²

“Greater reporting and a dismal conviction rate spells disaster for women,” Agnes said.

⁵² Available at <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/NEWPDFs/Crime%20in%20India%20-%202016%20Complete%20PDF%20291117.pdf> (visited on July 13, 2018)

“This means that with great faith in the system, victims and/or their relatives come forward to report crimes. After a rigorous criminal trial, if the accused is convicted, the victim gets a closure that she has secured justice. But when she has to withdraw or the verdict is adverse, the victim experiences a sense of failure and she is stigmatized.”⁵³

Therefore, it can be concluded that, violence against women continues to increase in India, the criminal justice system has in many ways failed to respond to or deal effectively with it. Indeed, in crimes against women the rate of conviction is reported to be less than 4 percent. Very little effort, both in terms of making the law of more sensitive to women and in terms of enforcing it has been made in the past few years by the State to actually curb or deal with the violence. Women at therefore continue to suffer without adequate legal or other redress. Though some amendments took place in the early eighties and afterwards but the substantive laws relating to violence against women are inadequate and do not reflect the various kinds of violence women experience. The *de jure* laws have not been translated into *de facto* situation for various reasons such as illiteracy, social practices, prejudices, cultural norms based on patriarchal values, poor representation of women in policy-making, poverty, regional disparity in development, lack of access and opportunity to information and resources, etc. The ground situation more or less remains the same.

⁵³Available at <https://www.indiaspend.com/crime-against-women-up-83-conviction-rate-hits-decadal-low-18239/> (visited on July 13, 2018).

Chapter - 3

CAUSES AND CONSEQUENCES OF VIOLENCE AGAINST WOMEN A THEORETICAL EXPLANATION

3.1 Introduction

One question that is asked by sociologists, criminologists, law maintenance officers and the public alike is what causes men to be violent, abusive and cruel towards women? Some of the theoretical propositions on criminal violence generally are:

(i) it can be an instrument useful in obtaining some end or reward, (ii) it is a normal response to provocation, (iii) it involves the acting out of some psychopathy, and (iv) it can be a response that is consistent with norms supporting its use, and so forth. A few social scientists have attempted to explain criminal violence by presenting a summary of factors found to be related to various types of violence against women. These associations and correlations, howsoever, do not provide a scientific theoretical insight into the causes of violence against women.¹

The analyses of various types of violence against women and their varied patterns presented in this study, therefore, calls for examining and testing some important theories. So far as Indian scene is concerned, in the past few decades, with increasing evidence regarding the phenomenon, crime against women has drawn the attention of several concerned feminists, human rights groups, social scientists and social work practitioners. Many scientists have also attempted to study the phenomenon and have proposed several theories to explain the same. It

¹ Available at https://shodhganga.inflibnet.ac.in/bitstream/10603/52365/11/11_chapter%203.pdf (March 3, 2017).

will be desirable to have an overview of various theories that have been put forward in this regard.²

3.2 Theoretical Propositions

We have identified several theories which we believe have some relevance for understanding violence committed by an individual. These theories range from intrapsychic theories to macro-sociological theories. We may classify these theories on the basis of four (theoretical) levels of analysis;

1. Feminist theory,
2. Psycho-Pathological Theory
3. Socio-psychological analysis, and
4. The social problem approach.
5. Integrated Approach Theory or Multi Factor Theory

3.2.1 Feminist theory

As the name suggests, this theoretical perspective emerged during the height of the Women's movement in 1970s. Advocates of this theoretical orientation argue that domestic violence is broadly defined as male coercion of women. Violence against women includes domestic violence, acid attack, rape, sexual assault, female infanticide, marital rape and female circumstance.³ The common elements in all these type of violence against women are gender and power.

At the core of feminist explanations is the view that all violence is a reflection of unequal power relationships: domestic violence reflects the unequal power of men and women in society and also, therefore, within their personal relationships.⁴ Feminist theorists never employ terms such as “family violence”, “spouse abuse”, “marital violence” and “conjugal violence” because they believe these terms shift the focus away from the concept of male coercion and away from the woman. Rather, they advocate for terms such as “wife-beating”, “domestic

² Ibid.

³D. Kurz, "Social Science Perspective in Wife Abuse: Current Debates and Future Directions", *Gender and Society*, 489-505 (1989).

⁴Bela Rani Sharma, *Women, Marriage, Family Violence and Divorce*, 97 (1999).

violence”, “battered women” and “woman abuse”.⁵ By defining and conceptualizing violence in this manner, the victims are clearly women and wives, and they should be the focus of research, interventions, and policies.

Advocates of the feminist theory assert that the etiology of violence lies in the patriarchal structure of society, in which men play a dominant role in most social institutions.⁶ Male dominated structures are exhibited in the economic structures, social institutions, sexist division of labour, and traditional gender role expectations.⁷

Along with verbal, emotional, and economic abuse, violence is a means of maintaining male power in the family when men feel their dominance is being threatened. Economic roles have left women dependent on men and unable to escape abusive situations.⁸ Men's superior physical strength may enable them to dominate women through violence.

Feminists argue that a consequence of the social arrangement in which men hold the positions of respect and power is that men and women alike devalue the feminine and over-value the masculine. This differential access is the result of society assigning value to certain characteristics. In other words, there is a hierarchy of what is viewed as inferior or superior, and the attribute "male" for gender is valued more so than “female”.⁹

Paul has identified the close relationship between the control and management of money in marriage and the exercise of power. Wives were likely to have greater decision-making power if they were in paid employment. Research by Kalmuss and Straus shows that women's economic dependence is a mediating

⁵L.V. Davis, and J.L. Hagen, "The Problem of Wife Abuse: The Interrelationship of Social Policy and Social Work Practice", *Social Work*, 15-26(1992).

⁶E. Pence and M. Paymar, *Education Groups for Men Who Batter: The Duluth Model*, 45 (1993).

⁷S. Scheeter, *Women and Male Violence*, 24 (1982).

⁸I.M. Johnson, "Economic, Situational, and Psychological Correlates of the Decision-making Process of Battered Women", *Families in Society: The Journal of Contemporary Human Services*, 168-76 March (1992).

⁹J.L. Griscom, "Women and Power: Definition, Dualism, and Difference" *Psychology of Women*, 389-413 (1992).

factor in violence against wives; the greater the dependence, the greater the risk of serious assault.¹⁰

There can be no doubt that feminist analysis have added greatly to our understanding of violence by viewing it in the context of power relationships and the more general position of women in society. However, 'feminists...have focused too narrowly on patriarchy and sexual oppression, and therefore failed to consider class, racial and cultural oppressions'.

3.2.2 Psycho-Pathological Theory

The psycho-pathological model for uses on the personality characteristics of offenders and victims as chief determinants of criminal violence. This model includes analysis that links mental illness (i.e. a small number of mentally ill persons are violent, alcohol i.e. what one does under the influence of alcohol and other drugs and other intra-individual phenomenon to acts of violence. This theory gives two different explanations. According to one, the causes of violence against women arise from the offender's psychological problems (like depressive impulsiveness, uncontrolled emotions, etc.). According to the other, violence against women arises out of psychological problems of victims.

There are, however, no adequate data to support either of these point of views. If women who are **burnt**, battered, raped, tortured, molested or kidnapped behave strangely, it is possibly the consequence and not the cause of being battered or raped or kidnapped. The evaluation of the psycho-pathological approach to violence has also shown that the proportion of individuals who use violence against women and suffer from psycho pathological disorders is not greater than the proportion of population in general with psycho-pathological disorders.¹¹

3.2.3 Socio-Psychological Theories

The socio-psychological model assumes that criminal violence can best be understood by careful examination of external environmental forces that exercise

¹⁰K. Browne, D.G. Saunders, and K.M. Staecker, "Process- Psychodynamic Groups for Men Who Batter: Description of a Brief Treatment Model", University of Michigan, January 6, 1996.

¹¹*Supra* note 6 at 95-6.

impact on an individual offender. This model also examines the type of everyday interactions which are precursors of violence. Theories such as the Frustration Aggression theory, Perversion theory and the Self-Attitude theory approach criminal violence from a socio-psychological level of analysis. This theory first stated in 1939 by Dollard, derived many of its basic postulates from Freudian theory. It explains the process by which aggression is directed to the source of frustration. The aggressive drive is an innate drive. It helps explain individual violence because the individual is the focus of high personal involvement and of high frustration in the family.

Whenever something interferes with an individual's attempt to reach some goal or end, he feels frustrated and frustration in turn leads to some form of aggression. After taking various criticisms into account, this theory was modified. Today it is recognized that an actual display of aggression may be inhibited by either internalized norms or external controls, even though the impulse for aggression may be strong following some frustrating experience. It is also recognized that frustrations can be cumulative and that they can remain active over a long period of time. It is also acknowledged that people perceive frustrations in varying ways, with those deemed arbitrary or unreasonable most likely to trigger aggressive responses. Further, it is recognized that responses to frustrations can be learned. In short, aggressive actions are not an automatic consequence of frustration, and their occurrence depends upon numerous factors.¹²

According to the Frustration Aggression theory, aggression is always directed towards one who is believed to be responsible for frustration. If this is so, this theory does not explain criminal violence in the types of crimes we have analyzed here. Take for example the case of a dowry-death. Why does the mother-in-law/husband kill the daughter-in-law/wife when the source of frustration is not the girl who is killed but her parents who fail to fulfill the dowry demands? The same is true in the case of a brother who murders his sister to escape sharing his father's property with her. The source of frustration here is the government which has enacted the Succession Act and not the girl who is murdered. Or, the case of a

¹²Straus, Gelles and Steninmantz, *Behind Closed Doors*, 89 (1980).

girl who is abducted and raped because her father does not agree to marry her to the rapist. Here, the source of frustration is not the girl herself but her parents who refuse to marry their daughter to the assailant. The parents in the first and third cases and the government in the second case have the 'command of force' and aggression cannot be released against a potentially dangerous object. We thus find fault with this theory not only on the ground that aggression is not always directed to the source of frustration but also because it is often directed towards some other object. It is also criticized on the grounds that: (1) the relationship between frustration and aggression is not innate, (2) a wide variety of responses may result from frustration and aggression is not the only response, and (3) aggression may be an adaptive response and a rational choice of behaviour.

Yet other criticisms against this theory are: (i) human behaviour is not an extension of animal instinctive or innate behaviour but the product of a complex interplay of biological and environmental factors. An individual's social behaviour depends upon his social and cultural milieu; (ii) responses to frustrations are learned just like any other social behaviour and what is learned has a lot to do with socialization practices which themselves differ from group to group and society to society; (iii) people could do many things though they never do them, and hence receive neither rewards nor punishments. Thus, people's own experience of rewards or punishments is not a necessary ingredient in the formulation of their behaviour patterns. Rather, they can anticipate whether a certain action will get them rewards or punishments by learning what happens when others do it; (iv) this theory overlooks the cases in which aggression can be an instrumental act for aims other than causing injury or pain. Thus, sexual conquest may be the sole reason for of but a minor element and (v) this theory cannot explain the epidemiological aspect of the offence and has made distinction between reactive types of aggression and habitual learned aggression which receives situational reinforcement and facilitation. In the latter case, aggression becomes customary, persistent and not just an ad hoc reaction. This learning and being exposed to aggressive modes of behaviour create an aggressive view of the world. Aggression creates counter aggression and a vicious circle is thus

established. This can happen only when the value system is aggressive and is accepted by members who behave accordingly.¹³

Two components of Socio-psychological theory can be summarized as under:

3.2.3.1 Perversion Theory

The psychoanalysts explain violence on the basis of the Theory- of Perversion and the Theory of Symptom Formation. They do not regard perverts as constitutionally inferior people but maintain that perversion develops from instincts. Perversion essentially means persistence in the adult of infantile instincts and behaviour at the expense of adult behaviour. In the pervert, infantile traits fail to undergo the normal process of integration during puberty but are not converted into neurotic symptoms. Violence can be the product of strong inborn drives or of pathological experiences in infancy or early childhood. In the latter cases, childhood conceptions of the relations between the sexes as being aggressive and sadistic and the idea of pleasure as a negative process, essentially achieved by relief from a state of “unpleasure” are carried into adulthood.¹⁴

Explaining different kinds of perversion, psychoanalysts point out that maturation involves leaving early aims and objects and choosing new aims. Perversions can, therefore, be conceived of as distortions of aims and objects and in the absence of the distortion of appropriate feelings towards these objects.

The consolidated approach is that aggression arises from castration fears which in turn are derived from earlier oral sadism. This was later accepted by most psychoanalysts as a possible explanation of the etiology of perversion, in particular violence against the weak. This theory was considered important because it was supported by the clinically established fact that there is a higher incidence of perversion among males than among females.

A discussion of the dynamics of perversion has included the objects of aggression and the operations of the ego and super-ego. One theory suggests that the ego is 'split' in perverts; another that through ego mechanisms, the object splits

¹³Ram Ahuja, *Violence Against Women*, 203 (1998).

¹⁴ Id at 204.

suggests that a 'good' object is idealized by the pervert while he uses aggression towards a 'bad' object.

We reject this approach in explaining violence against women because of the limitations of this approach. Explaining psycho-analytical hypotheses of 'infantile instincts', 'inborn pathological drives', 'distorted feelings', 'childhood sadism' or 'split ego' about causes for committing an offence by individual male offenders is to ignore an important dimension of environment in the causation. Acid attack, Wife-beating, rape, abduction, bride-burning, and even murder cannot be the result of a mere primary instinctual component of a personality or a means of solving psychic conflict. Though aggression is a basic element in personality structure, its origin and direction in social relations, especially between the sexes, cannot be explained only as a result of personality pathology.¹⁵

3.2.3.2 Self-Attitude Theory

This theory maintains that in a society, a culture, or a group that values violence, persons of low self-esteem may seek to bolster their image in the eyes of others and themselves by carrying out violent acts. It explains the propensity to violence of those for whom society makes it difficult to achieve an adequate level of self-esteem. Accepting this theory would mean that all individuals who use violence against women (that is, **attackers**, rapists, abductors, murderers, and batterers) suffer from low self-esteem.¹⁶

3.2.4 Socio-Cultural Theories

The sociological or socio-cultural model provides a macro level analysis of criminal violence. This model examines criminal violence in terms of socially structured inequality and social and cultural attitudes and norms regarding anti-social behaviour and inter-personal relations. Besides the two well-known theories, viz. the structural-Functional theory and the Theory of Sub-Culture of Violence, the Learning Theory, the Exchange Theory, the Atomic Theory, and the Resource Theory also come under socio-cultural analysis.

¹⁵ Id at 205.

¹⁶ Id at 206.

While earlier theories sought the causes of violence against women within the characteristics of individuals or in external factors affecting individual's behaviour, later on other theories developed which focused on interpersonal or interactional processes as the source of violence. System Tension Theory, Anomie Theory, Theory of Sub-cultural of Violence, Resource Theory, Patriarchy Theory, Social Interaction Theory and Social Exchange Theory are some such theories, which explain male violence.¹⁷ We will briefly analyze all these theories.

3.2.4.1 Structural Theory

This theory asserts that social groups differ in respect to their typical levels of stress, deprivation and frustration and in the resources at their disposal to deal with these stresses. It explains that those individuals would be more violent who combine high stress with low resources. This theory thus explains an individual's action in terms of the ways it is shaped or determined by social forces of one kind or another. The offender's violence is seen as determined by the degree of his integration in the system. One consequence of accepting this position is that the action of individuals has nothing to do with their personalities and values, and that violence cannot be described in terms of conflict, suppression, sublimation, guilt, and so on. The role of rationality also has to be rejected in social action. The structuralistic perspective, thus, leaves some questions unanswered because of which it is criticized.¹⁸

3.2.4.2 System Tension and Feedback System Theory

This theory was developed by Straus to explain intra-family violence. Straus accounts for violence in the home by viewing family as a purposive goal-seeking, adaptive social system. Violence is seen as a system product or output rather than an individual pathology. Straus specified positive feedback in the system which can create an upward spiral of violence, and negative feedback which can maintain, dampen, or reduce the level of violence. According to this theory, violence is precipitated by factors such as stress and inter-individual conflict and is followed by consequences which maintain or escalate violence in family and in society.

¹⁷ Ibid

¹⁸ *Supra* note 6 at 208.

Tension in the broad sense, of which stress and strain are manifestations under conditions of felt blockage, is ever present in one form or another throughout the socio-cultural system - sometimes as frustration, aggression or normative deviation and sometimes as conflict and competition or upheaval and destruction. It may be put as: (1) Man is always trying to live beyond his means. Life is a sequence of reactions to stress; man is continually meeting situations with which he can not quite cope. (2) In stress situations, energy is mobilized and a state of tension is produced. (3) The state of tension tends to be disturbing, and man seeks to reduce the tension. (4) he has direct impulses to take action.¹⁹

This theory has been criticized on the basis that there has been little research specifically concerned with the learning of marital violence. It also over-emphasizes the social system and completely ignores the role of individual's personality. Since in our integrated approach, aggression is recognized as a basic element in personality structure, we cannot reject personality as a factor in social relations among people, especially between the sexes. In the relations between them, the male is perceived as aggressive and the female as passive, which may sometimes take the form of direct aggression of the male against the female. Aggression thus is concerned with personality and not necessarily the result of social system.

3.2.4.3 Anomie Theory

Robert Merton in his Anomie Theory, developed in 1938, discusses socially learned needs, goals and aspirations and the restricted structural access or institutionalized means to their attainment. He maintains that some social structures exert a definite pressure upon certain persons in society to engage in non-conformist rather than conformist conduct. When there is a tendency to overemphasize goals without sufficient attention to institutional means, it leads to willingness to use any means, regardless of their legality, to see that the goal is attained. The theory thus delineates the relationship between one's social position, the strain which accompanies that position, and the resulting deviant and non-deviant adaptations. Merton has outlined the possible adaptations that can occur when the goals have been internalized but cannot be legitimately attained.

¹⁹*Supra* note 12 at 91-3.

However, his major concern is with the innovator, the person who uses illegitimate but nonetheless effective means to achieve goals.²⁰

Using Merton's framework to explore crimes by men against women, we find that it doesn't explain any crime analyzed by us. Merton himself had admitted that all crimes are not explained in terms of anomie. The **attackers**, rapists, the kidnappers, the murderers and the batterers may not have any monetary success goal in their minds which may push them in the direction of illegitimate behaviour. In fact, the anomie theory poses many questions; for instance, those of the validity of assuming a dominate value system, the location of anomie within the individual or the normative system, and the nature of the conflict between the norms and the general culture and those of the norms internalized by the individual. Wolfgang and Ferracuti have also maintained that the anomie theory has failed to explain violent aggressive behaviour. Leonard too believes that Merton's theory does not explain sexual deviance.²¹

3.2.4.4 Theory of sub-Culture of Violence

This theory claims that the life circumstances of certain groups trigger violence as a relatively commonplace outcome of social interaction. It also asserts that values and norms provide meaning and direction to violent acts and thus facilitate or bring about violence in situations specified by these norms and values. It explains that violence is a response that is consistent with norms supporting its use.²²

Sub-cultures of violence, made up of groups quick to use force in interpersonal relations, are centralized in urban slum areas. Grinding poverty, unstable community organization and disorganized family life in such areas lead to the emergence of certain lower-class values or focal concerns. Two important concerns identified by N.E. Miller are trouble (i.e., suspicion of others and anticipation of difficulty from police, fellow citizens, schools, etc.) and excitement (the pursuit of hedonistic pleasures). Persons with these concerns, values and motivations, thrown together in close contact, heighten the potential

²⁰Ram Ahuja, *Sociological Criminology*, 132-3 (1996).

²¹Id at 134.

²²Wolfgang, Marvin, *Patterns in Criminal Homicide*, 137 (1958).

for violent incidents. This theory thus rejects the notion of personality pathology.²³

Scholars like Albert Cohen, Walter Miller, Richard Cloward and Lloyd Ohlin have also referred to the culture of violence. But their assertions in fact explain the criminal violence of lower-class adolescent boys in gangs. Their theories do not explain all crimes but both implicitly and explicitly emphasize their interest in lower-class male delinquency. As such, these theories cannot be applied to crimes committed against women by individuals in isolation. As explained most of the crimes against women are individual crimes and not gang crimes.²⁴

Anthropologist Oscar Lewis explained violence in terms of the culture of poverty. According to this view, the important traits of poverty are fatalism, authoritarianism and violence, as well as a sharp contrast between advocated and actual sexual conduct. Lewis asserts that people with a culture of poverty are aware of middle-class values but they do not live by them. Thus both learned ideas and living conditions encourage violence.²⁵ This sub-culture of poverty explanation for criminal violence has been challenged on the ground that generally the poor are law-abiding and the affluent are not.

3.2.4.5 Resource Theory

This theory of intra-family violence developed by W.J. Goode was in fact the first theoretical approach applied explicitly to family violence. Goode states that all social systems rest to some degree on force or threat. The greater the resources a person can command within a social system, the more force he or she can muster. However, the more resources a person can command, the less the chances are that a person will actually deploy violence. Thus, violence is one of the resources that individuals or collectivities use to maintain or advance their interests. But violence is used as a last resort when all other resources are exhausted. Applying this set of resummptions to the family, Goode explains that family is a power system in which four sets of resources are in operation to

²³Wegner, "Contexts Specific Approach", *Pacific Sociological Review*, 205 (1985).

²⁴ L. Walker, "The Battered Women and Learned Helplessness", *Victimology*, 67 (1977-IS).

²⁵ Id. at 69.

maintain stability: economic variables, prestige or respect, love, and force or threat of force. As a child, the **attacker**, batterer, torturer, murderer or humiliator learns to use force or threat of force if he feels there is an imbalance in family transactions. For example, when he feels he is missing out on respect or love or faithfulness, force is the only resource he has at his command. A husband who wants to be the dominant family member but has little education, job prestige or income and lacks inter-personal skills, is likely to resort to violence to be the dominant person.

This theory also does not stand good when applied to some forms of violence against women. Various arguments can be given against this theory when applied to wife battering, dowry-deaths, murders, rapes, and so on. For example, this theory does not hold good in violence which are generally committed outside the family. Even within the family it does not explain the cause of more aggravated crimes such as dowry death, suicide etc.²⁶

3.2.4.6 Patriarchy Theory

This theory developed by R.E. Dobash maintains that throughout history, violence has been systematically directed towards women. Economic and social processes operate directly and indirectly to support a patriarchal social order and family structure. Dobash's central theoretical argument is that patriarchy leads to the subordination of women and contributes to a historical pattern of systematic violence directed against females.²⁷

Dobash's theory, while perhaps the most macro-level approach to violence against women, has a major drawback of being a theory that is essentially a single factor (patriarchy) explanation of violence towards women.

3.2.4.7 Conflict and Control Theories

Scholars like Foucault, Thompson and Rothman have presented a domination model of deviance. They have talked of rules imposed on the powerless by the powerful. Radical and conflict sociologists like Quinney have argued that the purpose of controlling deviance is to protect the interests of the

²⁶*Supra* note 13 at 212.

²⁷M.P. Feldman, "Developments in the Study of Criminal Behaviour" *Violence*, 315-7 (1952).

dominant classes and to prevent access to their resources by outsiders. In other words, the control apparatus is created to prevent the powerless from pursuing their interests, particularly if that pursuit involves gaining access to resources monopolized by the powerful. Imposing varied restrictions on women and compelling them to remain dependent on men economically, socially and emotionally to make them realize that they are 'weak' and powerless in the respects, stand as an example of this argument. To the extent that the agents of control belong to the dominant group, an overall system of devaluation of the 'powerless group' (women) can easily be implemented. Schur contends that male control of deviance labeling results in their continued dominance in most spheres of life.²⁸

The constraints on women's rights can be interpreted as a function of the successful definition of women as different from and inferior to men. "Man talks of woman not in herself but as relative to him. She is not regarded as an autonomous being. She is differentiated with reference to man and not he with reference to her. She is the incidental, the inessential as opposed to the essential. He is the Subject, he is the Absolute; she is the other".

Sex role norms clearly differentiate men from women. When these norms become internalized, they are accepted as facts and seldom questioned. Millet has said: "Because of our social circumstances, male and female are really two cultures and their life experiences are utterly different. Women live in such a different economic, cultural and social world from men that their reactions cannot be understood from a master model developed in male society."²⁹

What is in question is not the existence of gender differences but the extent to which such differences justify restrictive role assignments to each gender. There is little disagreement regarding the cultural construction of gender, but there are conflicting views on the role biological factors play in such development.

²⁸*Supra* note 13 at 213.

²⁹*Ibid.*

Thus, women are (i) declared as different, and (ii) defined as inferior, and (iii) women stereotypes are justified, (iv) they are systematically deprived of rights, and (v) all attempts at change are restricted.

3.2.4.8 Interactionist Deviance Theory

This theory, exemplified by theorists such as Erikson, Becker, Schur and Lemert has three characteristics: (i) it cites sex roles as causal factors of why people engage in crime and deviant behaviour, (ii) it maintains that societal expectations about appropriate sex role behaviour influence the diagnosis and labeling of certain actions as deviant or criminal, and (iii) it holds that gender affects the response to such (deviant) behaviours by society. Since women tend to be less powerful and of lower social status than men, they are easily labeled as deviant in cases of domestic violence. This theory explains family violence in terms of sex role or gender norms, i.e., differential expectations for values, attitudes and behaviours as a function of one's gender. These norms serve as important standards against which women and men are evaluated through application of various sanctions.³⁰

According to the prevalent sex role norms, a husband expects a 'good wife' to behave in a certain manner. She has to run the household smoothly, ensure children's well-mannered behaviour, avoid assertiveness and remain submissive to elders in family. Any show of independence on her part would violate sex role expectations for female behaviour. According to deviance theory, norm violations tend to trigger forces aimed at making the violator conform to expected standards of behaviour. Thus, when women do not behave like the male's ideal of wife, husbands use violence against them to make them conform to norms.³¹

3.2.4.9 Social Learning Theory

This theory asserts that human aggression and violence are learned conduct, especially through direct experience and by observing, the behavior of others. According to this theory the individual learns violence through imitation. Individuals pick up the behaviour patterns of those they are taught to respect and

³⁰M. Fitzgerald and J. Pawson, *Crime and Society*, 34 (1931).

³¹ Id at 318

learn from. Whether observed in the flesh or via visual media, the behaviour of aggressive models is readily imitated by individuals. Aggressive behaviour patterns learned through modeling and imitation remain part of our repertoire of social responses over time. Rewards and punishments also play a crucial role in the learning and expression of behaviour patterns. One might think that physical aggression directed against one's fellows could hardly have any rewards, actual or anticipated. But it is not so. Violence offers abundant rewards and one learns it very early in life.³²

This theory explains both the variations of persons and situations in their tendency to respond aggressively by reference to prior experience, reinforcement patterns, and cognitive processes. Steele and Pollock and Bennie and Sclare have maintained that abusive male adults are likely to have been raised in abusive homes. In fact, this 'family determinism' approach maintains that all victims of childhood violence will grow up to be violent adults. This explanation does not appear to have a scientific basis. Accepting this theoretical explanation would be accepting a relationship in a too simplistic deterministic form.³³

We applied this theory in studying a wife-batterer's history of abuse as a child and found that about half of the batterers (55%) had faced conditions of manifest physical brutality or severe emotional rejection in their childhood. The data, thus, supported the social learning theory. Yet, our contention is that violence which is the result of victim's provocation or victim's complicity, etc. cannot be explained on the basis of this simple theory. We have to look for a theoretical approach which may be applied to all types of violence against women.

3.2.4.10 Symbolic Interaction Theory

This theory specifies the process by which self-image and identity of a person as 'violent' are formed, and the process by which violent acts acquire individual and socially shared meaning. It explains the origin and maintenance of

³²A. Bandura, *Aggression: A Social Learning Analysis*, 304 (1973).

³³Id at 305.

the structure that is necessary for all human social behaviour, including violence.³⁴

This perspective focuses its attention on the nature of interaction, the dynamic patterns of social action, and social relationships. It attempts to understand action as the participant himself understands it.

Although the participant would probably use different language to describe his feelings and behaviour, the general intent is to discover the actor's predicament and situation as he sees it. Although the basic idea of symbolic interactionism dates back to George Herbert Mead, this theory is linked more with scholars like Herbert Blumer, Everett Hughes, Erving Goffman and Howard Becker. According to Mead, an individual's self (consciousness) depends on his ability to take the same attitude towards himself as others take towards him. He sees himself as others see him. The grasping of attitudes and views of others is possible because individuals share the significant symbol, i.e., individuals can engage in meaningful communication with one another through the medium of language. It is through a dialogue with others that an individual becomes aware of the views and attitudes of others and through social interaction and exchange that he develops self-consciousness.³⁵

Howard Becker has a different view on the stimulus response model. While this model emphasizes the primacy of external events and maintains that human actions are seen as response to stimuli which occur in the outer world. Herbert Blumer points out the facts that human beings can initiate action without having to wait for external events to stimulate them into action. He also emphasizes the fact of action being purposive. It is taken in pursuit of some end that the actor has in mind, and towards which the organization of action is a means. The stimulus-response not only leaves little room for conceptions of purpose, but also offers a view of behaviour as being automatic, as a reflex which is tied to a stimulus. Herbert Blumer submits that action may be both deliberative and creative. It is deliberative in that the actor thinks about what he is doing, recognizes, assesses and chooses among alternative courses of action. He makes

³⁴Herbert Blumer, *Symbolic Interactionism: Perspective and Method*. 392-4(1969).

³⁵Ibid.

plans prior to acting and revise them as he encounters changing or unforeseen circumstances.³⁶

Applying Blumer's views on violence against women, it could be said that it (violence) is not always the result of provocation by the victim. The offender uses it because he considers it as the only means to achieve his end. In other words, violence is seen as a means to achieve the end which is preplanned. It is not a *mere* reaction. An individual is not a mindless, instinct-dominated organism. What the circumstances are for the individual are dependent on the purposes, plans and knowledge that he has in mind.

Could we accept the idea of rationality demonstrated by symbolic interactionists? The very idea of violence involves the belief that their (offender's) rationality is impaired and that they are incapable of conducting themselves in a rational way. But symbolic interactionists find an element of rationality in violence too. Thus symbolic interactionists are inattentive to the importance of structural constraints and underestimate the extent to which choices are effectively fore-closed by given social circumstances. Their perspective lacks a convincing account of motivation. It is important to know why people consistently choose to be violent (act in a certain way in certain situation), instead of behaving in other ways. The symbolic interactionists view that it is the individual's decision to act so as to maximize his effectiveness completely ignores the constraints prescribed by the existing social structures.

3.2.4.11 Exchange Theory

Richard J. Gelles feels that the Exchange Theory is the best theory of violence because it integrates the key elements of the diverse theories of human violence. According to the Exchange Theory, interaction is guided by the pursuit of rewards and the avoidance of punishment and costs. In addition, an individual who supplies reward services to another obliges him to fulfill an obligation and thus the second individual must furnish benefits to the first. The exchange does not pertain to concrete or tangible things; rather, it involves intangibles such as esteem, liking, assistance and approval. If reciprocal exchange of rewards occurs,

³⁶ Id at 209.

the interaction will continue, but if reciprocity is not received, the interaction will be broken off. Thus, actors expect rewards to be proportional to investments (distributive justice). The costs and rewards are judged in the light of alternatives.³⁷

This theory explains the growth of resentment, anger, hostility and violence when the principle of distributive justice is violated. In applying the principles of the Exchange theory to explain violence in a family (in our case wife-beating, dowry death and rape by a family member), we expect that people will use violence in a family if the costs of being violent do not outweigh the rewards. Goode suggests that force is used more by those in the poorer classes partly because they have less alternative resources and partly because their socialization experiences teach them to depend more on force. However, all researchers do not agree that the poor classes do use more force, though statistics show more violence against women in lower classes. Higher figures of violence in poor classes are there because of the fact that greater proportion of the population belongs to lower classes or it may be that middle classes have more sources or have greater motivation to hide their offences.³⁸

Intra-family relations are more complex than those studied by Exchange Theorists. A wife cannot break off interaction with her husband and parents cannot break off interaction with their children, even if there is no reciprocity, however, believes that violence is used as a last resort to solving problems in the family. But Nye does not accept Goode's viewpoint. Giving an example, it may be said that just as spanking is frequently the first choice of action by many parents, beating his wife is also the common practice of an unemployed and frustrated husband. In applying this theory to intra-family violence, we find some costs for being violent. First, there could be the chance of the victim hitting back; second, a violent assault could lead to an arrest and/or imprisonment; and finally, using violence could lead to loss of status. Thus, since the cost is greater than the reward, how does the Exchange Theory explain violence against women.³⁹

³⁷*Supra* note 13 at 218.

³⁸ *Id* at 219.

³⁹ *Ibid*.

3.2.4.12 Equity Theory

This theory propounded by Walster like Social Exchange Theory is concerned with what individuals feel they contribute to a relationship and what they receive in return. If one partner perceives an inequality in the exchange, he/she may react with anger or resentment before seeking ways to increase his/her benefits. However, if the partner perceives himself as the exploiter, rather than attempting to make the exchange more equitable, he may restore equity psychologically, reducing shame or guilt for exploitation by convincing himself that the victim deserves to be exploited.⁴⁰

3.2.4.13 Cognitive Dissonance Theory

According to this theory of Davis and Jones the exploiter may begin to denigrate his victim. The assaulting husband may either be reacting to perceived exploitation by his wife or may be justifying his own exploitation of her by debasing her psychologically and physically.⁴¹

3.2.4.14 Role Interference Theory

According to this theory of violence proposed by Palmer, Henry and Short, an individual becomes violent towards the person he perceives to be frustrating his attempts satisfactorily to play out competing roles. Humphrey gives an example of an alcoholic whose drinking interferes with performance of his occupational role of husband. He then behaves aggressively towards the person whom he perceives as making demands and having expectations he cannot meet.⁴²

3.5 Integrated Approach Theory or Multi Factor Theory

All theories described above may be classified in two groups; those emphasizing 'disturbed personalities' and those emphasizing 'social situations'. The former suggest that criminals are almost separate types of persons from the rest of humanity; the latter explain crime on the basis of functioning of social systems and social structures in society in such a 'disadvantageous' way that

⁴⁰M. Borland, *Violence in the Family*, 219 (1976).

⁴¹L.H. Bowker, *Women and Crime in America*, 78 (1981).

⁴²A.H. Buss, *The Psychology of Aggression*, 162 (1961).

certain persons react by carrying out offences. Some sociological theories have also been constructed to 'explain' the differences.

We now present a new theoretical approach to explain violence against women. One approach is that we could combine crimes like wife-battering, torture, dowry-deaths and murders, and analyze them on the theoretical model of intra-family violence and the remaining crimes like **acid attack**, rape, abduction, molestation, eve-teasing, etc. may be separately combined and analyzed on the theoretical model of violence exogenous to family. The other possibility is that we could take up all offences/types of violence and examine them together through one common theoretical model. On this basis, an attempt has been made here to develop a theoretical model which would explain all types of violence against women. We may describe this middle-range theoretical proposition.

This approach has been adopted by borrowing certain concepts from sociologists and criminologists like Hirschi, Schultz etc. It not only explains the etiology of violence against women but also uncovers the recurring patterns in which particular types of people are found to commit a particular type of crime against a particular type of individual, in particular types of circumstances.⁴³

A crime against a person is necessarily 'violence by somebody' and 'violence against somebody'. As such, violence against women has to be understood as violence by an individual against an individual in contrast to violence by a group against an individual or violence by a group against a group. In violence by the individual, its origin or form must be determined in the individual himself. If we remain at the micro-sociological level of analyzing violence (against the macro-sociological level which concerns itself with institutional violence, class violence, state violence, violence of the international system, etc.), an individual's behaviour may be partly seen as innate behaviour, that which concerns his predatory instincts, and partly as acquired behaviour, that which concerns his environment and his learning. Innate behaviour is capable of control and long-term conditioning and consequently of suppression through

⁴³ *Supra* note 13 at 220-1.

learning. Acquired behaviour on the other hand may vary from individual to individual.⁴⁴

An integrated model takes into consideration both innate and acquired behaviours. This model assumes the role of four factors: (i) social norms and social organization which socialize the individual, (ii) the personal characteristics of offenders and victims (psychiatric view) like emotional disturbances, aggressive impulses, a tendency to be rigid and domineering, a history of having been neglected or abused in childhood, low self-esteem, and so forth, (iii) the inter-personal characteristics of offenders (socio-psychological view) such as failure to get praise, appreciation, words of affection and polite modes of address from others, higher than normal levels of coercive-behaviour from others, such as verbal threats and words of dislike and disapproval, below average (or below normal) frequencies of overall family interaction and lack of outside social associations, etc., and (iv) the ecological or environmental factors, for it is within ecological boundaries that personal disposition to use violence or commit crime are developed and crime-evoking situations arise.⁴⁵

This model concentrates on the sociological analysis of social-structural conditions. The important conditions which lead a person to woman's victimization are: status frustrations, life stresses and career crisis, and structural opportunities. This view focuses attention not only on the aggressive act itself but also on the person who uses aggression and the person against whom aggression is used. The man who assaults a woman, physically or mentally, is often the man who either feels at a disadvantage with woman or who feels at an advantageous position in demanding a specific thing from a woman. He is demanding or jealous or lacks resources, and so on.⁴⁶

Further, the acid attackers, rapists, molesters, torturers, abductors, murderers, and batterers of women, or offenders committing crimes against females do not commit offences only because they are uninhibited hedonists. One category of these offenders consists of men who indulge in this deviant behaviour because they suffer from insecurity feelings and anxieties, while the other

⁴⁴Id at 222.

⁴⁵Ibid.

⁴⁶Ibid.

category is of those men who have an advantageous structural opportunity. The origins of feelings and anxieties are traceable to (1) inappropriate upbringing, (2) hindrances to childhood social development, and (3) unfortunate incidents in their life that serve to aggravate rather than to ameliorate the tendency to irrational and unrealistic attitudes towards women. This theory also takes into account, on the one hand, the three factors in offenders' behaviour, viz., adjustment, attachment and commitment, and, on the other hand, the factor that lack of adjustment, attachment and commitment leads to 'status frustrations'. Maladjustment, unattachment and non-commitment are to be examined in terms of demographic factors like age, income, education, etc., as well as the socialized personalities of the individuals.⁴⁷

Thus, in this theoretical model, importance has been given to the social system, the personality of the individual, as well as the subculture of the group in which an individual uses violence. In other words, integrated approach is based on the analysis of: (a) the social system, (b) the personality structure, and (c) cultural patterns. In the social system, we include strains and frustrations and structural opportunities; in the personality structure, we include adjustment (in status), attachment (to groups), and commitment (to values and roles); and in cultural patterns, we include the synthesis of traditional and modern values which operate as a means of social control (in a group/community/society). Violence appears to be the result of combination of certain factors. There is the role of four factors in violence: (i) personality factors (of male aggressors), (ii) situational factors, (iii) cultural norms, and (iv) resistance potential of female Victims.⁴⁸

What are the personality traits which provoke men to use violence against the weaker sex - women? Characteristics like anger, irritation, dominance, possessiveness contribute to man's violent behaviour. Development of these traits, i.e., violence-prone personality is the result of man's childhood, adolescence and other life experiences. Similarly, certain personality characteristic of women also compels them to submit to and suffer from man's aggression. Feeling of

⁴⁷Id at 224.

⁴⁸Id at 225.

helplessness (as pointed out by Walker) is one such trait. But then the question arises: Is helplessness the cause of or the reaction to victimization?⁴⁹

The study, however, showed that violence is not the result of provocation from irritating personality traits of the female victims, but rather from the aggressor's learned behavioural responses. One such character is aggressor's history of past violent behaviour. This includes witnessing (say, mother's beating by father), receiving (say, being beaten by parents on slight pretexts), and committing (say, beating his younger brother or sister) violent acts in the childhood home, or violent acts in school, neighborhood and other places. Some other personality traits are found to be temper tantrums, emotional insecurity, jealousy, possessiveness, suspicious nature, dominance, and being mean and hostile when one fails to get what he wants.⁵⁰

What are the situational factors responsible for violence? What is the role of stressful family situation, work-place situation and situation at the time of using violence in man's becoming aggressive? Is 'resourcelessness' one situation in the use of violence? To what extent economic deprivation, lack of employment, wife having a better job than her husband, wife's total dependence on husband, and such factors contribute to man battering his wife or committing homicide?

To what extent cultural norms or socio-structural variables like norms which justify male violence against women or family functioning on patriarchal principles or employers functioning on ideals of sex role differences and inferiority of women or system structures of a given society contribute to violence?

Woman's resistance/susceptibility potential would come from rigid sex role socialization patterns, leaving women with a sense of 'learned helplessness' so that they do not develop appropriate skills to escape violence. The potential for violence varies strongly with the degree of adjustment, commitment and attachment of the offender.⁵¹

⁴⁹Ibid

⁵⁰Ibid

⁵¹*Id.* at 226.

Attachment is the bond of affection between an individual and other (conventional) persons. The degree of attachment is how much a person cares for others and is cared for by them, and how much this person values others' feelings, opinions and expectations. An individual who is strongly attached to others is likely to consider how his behaviour will affect others and their attitudes, including their attitudes towards that individual. Unattached or less attached people lack such inter-personal stakes in conformity and have only themselves to think about. Attachment is, thus, a powerful inhibitor of deviant behaviour resulting from social frustrations and structural opportunities. The more a person is attached to other persons' feelings and expectations, the less likely he is to remain frustrated or use structural opportunity to indulge in violence.

Commitment is a feeling of obligation to seek a particular goal or to follow a particular course of action. As a result, freedom of choice and the number of alternatives in social action are limited. The greater the individual's commitment to a goal or to an action, the greater will be his stake in conformity to the social norms. Thus, commitment serves as a bond between the individual and social norms and represents what the person has to lose by violating the norms of society.

Adjustment refers to the smooth switch-over from one status to another, perceiving one's role as perceived by others, an active participation in all roles, and having a problem-solving attitude. Adjustment specifies a relatively harmonious relationship within and between individuals and groups. The greater the adjustment, the lesser the possibility of the individual's indulging in deviant/violent behaviour.⁵²

Maladjustment, unattachment and non-commitment lead to a feeling of relative deprivation or a superiority ego. Relative deprivation is a perceived discrepancy between an individual's value expectations (i.e., expectations pertaining to security, power, status, welfare, justice, freedom, etc.) and their value capabilities (conditions of life individuals think they are capable of attaining or maintaining, given the social means available to them).

⁵² *Id.* at 227.

Relative Deprivation = Perceived Opportunities and Perceived Capabilities

$$RD = PO + PC$$

Or

$$RD = P (O+C)$$

Here, the important factor is perceived (as by the offenders themselves, hence different variations in behaviour or relative deprivations do not always lead to violent agitations).⁵³

This approach thus explains the differential distribution and patterns of violence against women and those involved, not in terms of the offender's motivations and mental processes which may have led to the crime, but in terms of the variations among individuals in their social adjustments, values and beliefs and their social conditions. Because the highest rates of offences occur among individuals (both offenders and victims with relatively homogeneous values and beliefs), it is assumed that offenders hold a particular set of conduct norms which emphasize aggressive behaviour while victims have the least resistance potential towards aggressive behaviour. Thus, violence towards women is more likely to occur under specific circumstances. Furthermore, it is contended that individuals with these maladjustments patterns and values and beliefs are more likely to react aggressively than individuals having no such maladjustment patterns and values and beliefs. Hence, individual differences in aggressive behaviour may also reflect different degrees of integration with these values.⁵⁴

Acid attacks on women could also be explained on similar lines. Man believes in sex role differences and in his superiority over woman. He wants her to submit to him at his will. Woman refuses to believe in man's traditional attitude of his superiority. She has different perceptions of her own vulnerability. She rejects man's advances which motivates him to use his superior physical power and attacks her. A woman who is afraid of losing her job or of affection and care of her male relative or of disrupting her life status quo permits sexual abuse and suffers victimization in silence. But, a 'bold' woman resists sexual attacks and

⁵³Ibid

⁵⁴*Id.* at 228

refuses to be victimized. This explains the role of personality traits of aggressors and victims in violence against women. Whether or not a college girl, a maid servant, a teacher in a private school, a receptionist in a private firm, a run-away girl from home, and so forth will become victims of sexual assault of a college boy, employer, auto rickshaw driver, etc. will depend upon to what extent she is afraid of breaking her 'relationship status quo' and upon her 'boldly' resisting the traditional man's attitude of male superiority so that she can survive the violent attacks against her.⁵⁵

It is not contended, however, that when we talk of homogeneous values and beliefs, we accept Wolfgang's thesis of a sub-culture of violence. Rather, we maintain that violence is used by people who are either frustrated or develop a superiority ego due to lack of adjustment, attachment and commitment under specific circumstances. Frustrated relatively deprived individuals as well as those with a high ego are not constrained by their beliefs and values and they allow use of violence whenever and wherever they like. However, they are influenced by (i) the people against whom violence is to be used, i.e., victims have to be those who lack resistance potential towards aggressive behaviour, and (ii) by the idea of justification of their act (violence) before and after its commission. Thus, violence is used by these frustrated individuals when they view certain females as appropriate victims and certain situations as suggestive of, even opportune for the use of violence i.e., in specific circumstances and not in all circumstances.⁵⁶

We also suggest another factor in violence based on either frustration and a feeling of relative deprivation or a superior ego-the conflict between love and aggression. In both types of people, feelings of authority and dependency become predominant in their relationships with others. In extreme cases, these acts of criminal violence and aggression are caused by a loss of affection for the other, and, the feeling of authority in the offender towards the victim becomes dominant.

The integrated model based on adjustment, commitment, attachment and the relative feeling of deprivation or superiority ego is different from the Frustration Aggression Theory in the sense that this theory views the emergence

⁵⁵Radzinowicz, *Sexual Offences*, 241 (1957).

⁵⁶Supra note 22 at 139.

of frustrations in terms of an innate aggressive drive. Clinicians explain frustrations as a result of a variety of intrapsychic conflicts and pressures. We view status-frustrations as the consequence of inter-personal relations and the functioning of sub-systems in society. Our theory, thus, has a sociological orientation.⁵⁷

An analysis of causes of violence against women in the light of theoretical explanation reflects that crime against women is a complex and multifaceted problem in Indian society. Its root causes are as diverse and varied as there are researchers who study it. Much of researches into this area also indicate that there are several factors to be reviewed.

The psycho-pathological model focuses on the personality characteristics of offenders and victims as chief determinants of criminal violence. This model includes analysis that links mental illness (i.e., a small number of mentally ill persons are violent), alcohol (i.e., what one does under the influence of alcohol and other drugs) and other intra-individual phenomena to acts of violence.

The socio-psychological model assumes that criminal violence can best be understood by careful examination of external environmental factors that exercise impact on an individual offender. This model also examines the types of everyday interactions (say, stressful situations or family interactional patterns) which are precursors of violence. Theories such as the Frustration- Aggression Theory, the Perversion Theory, the Self-Attitude Theory and the Motive Attribution Theory approach criminal violence from a socio-psychological level of analysis.

The sociological or socio-cultural model provides a macro-level analysis of criminal violence. This model examines criminal violence in terms of socially structured inequality, and social and cultural attitudes and norms regarding anti-social behaviour and inter-personal relations. Besides the two well-known theories, viz., the Structural-Functional Theory and the Theory of the Sub-culture of Violence, the Learning Theory, the Exchange Theory, the Anomie Theory, and the Resource Theory also come under socio-cultural analysis.

⁵⁷Supra note 13 at 229.

Over the last two decades, the trend has been to move towards a more integrated "multidimensional" model in order to better understand and address the complexity of crime against women that has psychological, inter-personal, social, cultural and legal aspects. An analysis of various forms of crimes against women also reflects that this is such a complex phenomenon that a single theory does not and cannot explain all sorts of violence against women. There are numerous factors such as socio-cultural, structural, economic, pathological and psychological responsible for it. Changing social norms and values shape the evolution and typology of violence. Therefore, multifactor theory provides a comprehensive framework to understand the nature and causes of crime against women in India.

The reasons for crime against women require to be analyzed, so that appropriate measures can be taken. This study is only explaining about acid attack and its causes in detail. Acid violence is any act of physical, or psychological abuse, or the threat of such abuse, inflicted against a woman by a person who has been rejected by any women for marriage love or sex. "Acid" attacks – where any sort of corrosive substance is thrown at a person – represent horrendous crimes. Intended to cause disfigurement rather than death, these attacks leave survivors with permanent physical and psychological scars. Although acid attacks are relatively rare, it is estimated that there are 1500 victims every year.

Acid attack, which is also known as acid violence or vitriolage, has emerged as a brutal act that shows the gravity of the ongoing atrocities and human rights violations. The crime of acid attack is a premeditated act of violence wherein acid is thrown or poured on the face or other body parts of the victim. The atrocious crime of acid violence can be seen in many countries; however, it is more prevalent in countries like Bangladesh, Pakistan, India and Cambodia. The crime of acid attack can be committed against any person without any distinction being made on any grounds viz. age, sex or religion. However, the 226th Law Commission of India Report as well as the Justice Verma Committee Report admits that the heinous crime of acid attacks has a specific gender dimension in India. Acid attackers generally target young girls with the intention of disfiguring the face of the victim.

3.3. The reasons of acid attack against women

There are many reasons for acid attacks. The most common and obvious reason is “**love rejection**”, in which the proposer of marriage, love or sex is rejected by the victim.⁵⁸ Families of young women are very concerned with the preservation of their daughter’s marriage ability.⁵⁹ In addition to her physical appearance, a woman’s virginity is another resource in the marriage market, and therefore, women’s involvement in romantic relationships before marriage is taboo. Vindictive lovers, on being turned down for marriage by women or their families, resort to acid attacks to destroy the woman’s appearance and relegate her to a fate worse than death. Study of Indian News Reports, from January 2002 to October 2012 uncovered that victim’s rejection for love and marriage proposals motivated attacks in 35% of the 110 new stories, providing a motive for the attack.⁶⁰ Additionally, another report was published by a leading organization working for acid attack victims, ‘*The Campaign and Struggle against Acid Attacks on Women (CSAAAW)*’ found that sexual harassment or assault in response to a woman or girl refusing such advances or demanding that the violence stop often precede such attacks.⁶¹ This shows the society’s outlook on the women. Women still cannot fight for their rights which are the basic human right of every individual. Women are still regarded as “possession”, and a man is supposed to take up all the decisions in the family. And when a woman refuses a man, it is seen as destroying his reputation, prestige and honour, and he restores it by burning her face with acids. Men throw acid on women as a mark of their masculinity and superiority. By deforming her face, man derives a sadistic pleasure and his male ego gets satisfied.⁶²

Another prominent reason may be dowry problems or other marital problems. Though taking of dowry is a punishable offence, but still it is largely

⁵⁸Parvathi Menon, Sanjay Vashishtha, Vitriolage and India- The Modern Weapon of Revenge available at www.ijhssi.org Volume 4 issue 1 visited on Aug. 11, 2018.

⁵⁹Afroza Anwar, Acid violence and Medical Care on Bangladesh: Women’s Activism as Care Work, 17 Gender and Society 305, 306 (2003).

⁶⁰Sujoy Dhar, India’s acid attack victim (2013, August 20) The Global Times, (Retrieved from <http://www.globaltimes.cn/DesktopModules/DnnForge%20%20NewsArticles/Print.aspx?tabid=9&andtabmodulid=94&articleid=805020&moduleid=405> and Portal Id=0)

⁶¹Campaign and struggle against Acid Attack on Women (CSAAAW), *Burnt not defeated* 21-22 (2017)

⁶² Supra Note 58.

prevalent in many areas. It is considered as the duty of the bride's family, and has to suffer a huge social stigma if not complied with. In India, many women claim that they are attacked with acid due to the failure to meet with the monetary expectations of their in laws. In addition to this, land and property disputes may also be said to be the key reasons for the commission of this barbaric offence. The study of newspaper reports in India, exhibits that nearly 20% of the attacks occurred between unrelated people, due to business rivalry, sales disputes, land disputes or revenge between families.⁶³

Men resort to acid attacks as a means to intimidate women and to impose their authority on her. Such kind of barbaric attacks nurtures his male ego and makes him feel that he is the proud creator of God and has created the patriarchal society. Females between 11 and 30 years are the most vulnerable to such attacks, in 36% of the incidents the victims are targeted for rejection of marriage proposals. Therefore, the main reasons behind commission of the brutal act of acid throwing are many, namely rejection of love or marriage proposals, refusal to pay dowry, rejection of sexual advances, property or family dispute or marital disputes like refusal to give divorce. Acid attacks result into severe physical, psychological and socio-economic consequences and makes the life of the victim worse than death. Acid attack is a complex and multi-dimensional problem that makes it very difficult for the survivors to return to normalcy. Below the researcher describe how acid violence disproportionately affects women, results from discrimination, and perpetuates inequality and discrimination against women.

3.3.1 Acid Violence Results from Gender Discrimination and Inequality

Although acid violence occurs in many countries, it is particularly prevalent in the studied countries.⁶⁴ Acid attacks occur where there is significant gender discrimination. India, Cambodia, and Bangladesh rank very low on the Global Gender Gap Index, which measures national economic, educational, health

⁶³Acid Survivors Foundation Bangladesh, Annual Report 2009 at 15(2009), available at http://www.acidsurvivors.org/AR_2009pdf

⁶⁴The terms "acid violence" and "acid attacks" are used interchangeably in this Report. "Acid attacks" refer to specific incidents usually involving throwing acid at one or more individuals who are the intended victims of the attacks. "Acid violence" is a broader term that includes acts such as forcing a victim to ingest acid. Acid violence is also sometimes referred to as "vitriolage."

and political equality between men and women.⁶⁵ In 2018, Bangladesh, India, and Cambodia ranked 48th, 93rd, and 108th, respectively, out of 149 countries included in the Global Gender Gap Index.⁶⁶ A strong societal preference for sons is another indicator of the undervaluation of women relative to men. In 2016, 22.4% of ever-married Indian women age 15 to 49 expressed a preference to have more sons than daughters.⁶⁷ Similarly, in 2008, Bangladesh was found to have the highest ratio of son preference of all South Asian countries.⁶⁸ On the other hand, expressed preference for male children exists but tends to be moderate in Cambodia.⁶⁹

Perpetrators often intend to destroy what society considers to be one of the most valuable traits of a woman - her beauty. One author who interviewed rejected suitors who perpetrated acid attacks in Bangladesh noted that perpetrators mean to “punish” women for being “proud” of their attractive features.⁷⁰ In addition, some perpetrators also intend to burden an entire family by attacking the female family member given that the victim will be considered unmarriageable and must thereafter be supported by her family.

India and Bangladesh were once part of a single territory controlled by the British prior to 1947 and, as a result, share a similar cultural history.⁷¹ In contrast, Cambodia does not share the same history. Traditionally, Cambodia has had a matriarchal society in which suitors provided gifts to brides’ families, and polygamy is increasingly practiced due, in part, to the shortage of men caused by

⁶⁵World Economic Forum, The Global Gender Gap Report 2018, available at <http://www.weforum.org/report/the-global-gender-gap-report-2018> [hereinafter Global Gender Gap Report].

⁶⁶Ibid, at 10,11 tbl. 3.

⁶⁷**International Institute for Population Sciences & Macro International**, Ch. VII: Women’s questionnaire in National Family Health Survey 2015-16: India at 99, 100 sections 6: Fertility Preferences [hereinafter **International Institute for Population Sciences & Macro International** Ch. 7: Women’s questionnaire].

⁶⁸Kana Fuse, U.S. Agency for International Development (USAID), Cross-National Variation in Attitudinal Measures of Gender Preference for Children: An Examination of Demographic and Health Surveys from 40 Countries 11 (DHS Working Paper No. 44, 2008)

⁶⁹Jane E. Miller & Yana V. Rodgers, Mother’s Education and Children’s Nutritional Status: New Evidence from Cambodia, 26 Asian Development Review 131, 132 (2009) (citing D. Filmer et al., Development, Modernization, and Son Preference in Fertility Decisions (World Bank, Policy Research Working Paper No. 4716, 2008)).

⁷⁰Interview with Md. Mahbubul Haque, Trustee & Director, Policy Research Center, in Dhaka, Bangladesh (Dec. 10, 2009) (on file with Avon Global Center) available at <https://www.ohchr.org/Do%20cuments/.../AvonGlobalCenterforWomenandJustice.pdf> visited on Aug. 11, 2018

⁷¹Burton Stein, a History of India (David Arnold ed., 2nd ed. 2010).

decades of war and genocide.⁷² Even though the patterns of such inequality may differ in each country, most acid attacks that target women are carried out because of discriminatory attitudes in society against women. Below we discuss the most common reasons for acid attacks in Bangladesh, India, and Cambodia and explain how each type of attack reflects gender discrimination and inequality.

3.3.2 Rejection of love, marriage, or sex proposals in Bangladesh and India

Shruthi (Bangalore, India)- Shruthi was an energetic 10th grader who had recently moved to Bangalore, India. Shruthi's 16-year-old neighbor Rajesh expressed his infatuation with her by continuously displaying his affection and proposing to her several times. Shruthi refused his advances and marriage proposals. Shruthi told her parents about Rajesh's actions, and after Shruthi's parents spoke to Rajesh, he promised not to harass Shruthi anymore. However, Rajesh's promises were empty. The harassment continued until one day Shruthi angrily asked Rajesh to stop bothering her. He finally stopped, and Shruthi did not see him for several months.

Rajesh reappeared, approaching Shruthi while she was on the way to take a bus home after her computer class. Rajesh proposed to Shruthi again, and again she refused to marry him. After her refusal, she turned around and walked away. A few seconds later, he ran up to her, grabbed her from behind, and threw acid at her face and upper body. The attack occurred in front of a crowded bus stop during the daytime, but Shruthi recounted how no one attempted to assist her except for one bystander who covered her with his jacket and brought her to a hospital.

The pain from the burns caused Shruthi to lose consciousness at the hospital. She could not recollect what first aid treatment she received. As a result of the burns on her face, she lost vision in one eye. She was unable to contact her family until days later when she regained consciousness, made a complaint with the police, and the police contacted her family on her behalf. After receiving

⁷²Melanie Walsh, Institut d'Etudes Internationales De Montreal and LICADHO, Report on the Status of Cambodia Women: Domestic Violence, Sexual Assault and Trafficking for Sexual Exploitation 8 (2007), available at http://www.ieim.uqam.ca/IMG/pdf/Walsh_Cambodia_women-2.pdf.

treatment at a government hospital, she spent three months at Rashika Hospital for additional treatment. During this time, she received 32 painful surgeries to restore the parts of her face damaged by the acid.

Shruthi's attack received a lot of media attention, making headlines in the news for nearly one month. Her attack helped regenerate the public's interest in acid violence, as well as public health and gender-related issues, in the region. Television stations and newspapers showed before- and after-pictures of her in print and on-air, which helped to rally public outcry against acid violence and support for her cause. Shruthi believes the media coverage helped to expedite her trial and allowed her case to be heard by a "fast-track" court. She testified in court three times, and in the end the attacker received a 7-year prison sentence and a Rs. 5,000 (\$100 USD) fine.⁷³

ASF Bangladesh states that rejection of love, marriage, or sex proposals motivated 17% of the attacks in the country from May 1999 to December 2009.⁷⁴ Another study of 90 victims from January 2000 to June 2005 in Bangladesh, however, found that rejected suitors perpetrated nearly 56% of attacks studied.⁷⁵ A study of Indian news reports, from January 2002 to October 2010 uncovered that victims' rejected love or marriage proposals motivated attacks in 35% of the 110 news stories providing a motive for the attack. Additionally, a report written by a leading organization in India working on acid violence, the Campaign and Struggle Against Acid Attacks on Women (CSAAAW), found that sexual harassment or assault in response to a woman or girl refusing such advances or demanding that the violence stop often precede such attacks.⁷⁶

Acid violence targeting women because they reject marriage, love, or sex proposals implicates a number of gender-based discriminatory attitudes. First, it reflects the attitude that women are possessions. Indeed, victims in India report that, immediately prior to their attacks, the attacker said that if he could not

⁷³India Penal Code, No. 45 of 1860, Sec.326; Campaign and Struggle Against Acid Attacks on Women (CSAAAW), *Burnt not Defeated* at 22–23 (2007) [hereinafter *Burnt not Defeated*].

⁷⁴Acid Survivors Foundation, *Annual Report 2009*, at 16, available at <http://www.acidsurvivors.org/AR2009.pdf> [hereinafter *ASF Annual Report 2009*].

⁷⁵Farzana Zafreen et al., *Socio-Demographic Characteristics of Acid Victims in Bangladesh*, 6 J. Armed Forces Med. College Bangladesh at 14 (2010).

⁷⁶Campaign and Struggle Against Acid Attacks on Women (CSAAAW), *Burnt not Defeated* at 30 (2007) [hereinafter *Burnt not Defeated*].

possess her, then no one else could.⁷⁷ Experts interviewed by Avon Global center in Bangladesh similarly observed that attackers in these cases think that if they cannot “have” the victim, then no one else should “have” her.⁷⁸ This attitude suggests that these attackers view women as their property, particularly after attackers have decided to marry or become romantically involved with them. Another discriminatory attitude underlying these motives is that women are viewed as dishonoring men by not obeying their wishes. Traditionally, in these countries, only men have decision-making authority, and women must obey men’s decisions. A woman’s failure to submit to a man may be seen as damaging to the man’s reputation and honor.⁷⁹ A woman who does not follow a man’s decision may be attacked because the attack serves to restore the man’s honor and social position. As one commentator in Bangladesh explained: by “changing the woman’s face, the attacker seeks to save or restore his own.”⁸⁰

3.3.3 Dowry-related and other marital disputes in India, Bangladesh, and Cambodia

Swapna (Karnataka, India)- Swapna, a bus driver’s eldest daughter, married her father’s co-worker at age 19. For dowry, Swapna and her family gave her husband Rs. 40,000 (\$850 USD) and some gold, but her husband asked for more. Her parents were unable to fulfill the dowry demands. Swapna’s husband and mother-in-law began abusing Swapna, and on one occasion placed hot irons on the palms of her hands. One night, Swapna’s husband fed her sleeping pills, and after she fell asleep he poured acid on her. She was able to protect her face from the acid, but she suffered burns on her chest and stomach.⁸¹

⁷⁷Id. at 35

⁷⁸Interview with Rehana Rahman, Samina Afrin, Jahanara Ansar, Masreen Awal Mintoo, Women Entrepreneurs Association of Bangladesh (WEAB), & Cynthia Farid, Program Officer, ABA Rule of Law Initiative, in Dhaka, Bangladesh (Dec. 10, 2009) (on file with Avon Global Center).

⁷⁹Interview with Dr. Ferdous Jahan, Lecturer, BRAC University, in Dhaka, Bangladesh (Dec. 12, 2009) (on file with author) (explaining that in Bangladesh it is “the man’s responsibility to make decisions”); Shireen J. Jejeebhoy & Zeba A. Sathar, Women’s Autonomy in India and Pakistan: The Influence of Religion and Region, 27 POP. & DEV. REV. 687, 707 (2001) (finding that decision-making ability and autonomy is highly constrained in north and south India); U.S. Agency for International Development (USAID) Cambodia, Gender Analysis & Assessment Vol. 1: Gender Analysis 17 (2006) (explaining that traditional views of gender roles hinder women’s decision making ability, but that gender roles are nonetheless in flux in post-conflict Cambodia).

⁸⁰Interview with Hasibur Rahman Bilu, Reporter, Daily Star, in Bogra, Bangladesh (Dec. 9, 2009) (on file with Avon Global Center)

⁸¹Supra note 73 at 24.

In Bangladesh, India, and Cambodia, domestic violence is widespread,⁸² and husbands perpetrate a significant portion of acid attacks against their wives. One study of acid attacks in Bangladesh reported that victims' husbands perpetrated nearly 17% of cases studied.⁸³ Another study found that acid attacks occurred between spouses in 10% of cases reported in Bangladesh in 2009.⁸⁴ In India, several women have also claimed that their husbands attacked them with acid.⁸⁵ Furthermore, a study of news reports in Cambodia suggests that, in many cases, acid violence is perpetrated against a spouse,⁸⁶ and perpetrators have cited "hate and jealousy" or "suspicion of engaging in an extramarital affair" as reasons for acid attacks against their victims.⁸⁷

The discriminatory attitude that underlies many of these attacks is that a wife should not be autonomous or have decision-making power over her own resources.⁸⁸ For example, attacks have occurred in Bangladesh when a wife

⁸²Domestic or intimate partner violence, sometimes related to dowry, is endemic; it is almost perceived to be an inherent part of a woman's lot in Bangladesh. Interview with Dr. Biswajit, *supra* note 70; Interview with Dr. Saira Rahman Khan, BRAC University & ODHAKAR, & Taskin Fahmina, ODHAKAR, in Dhaka, Bangladesh (Dec. 13, 2009) (on file with Avon Global Center). In Cambodia, 3 out of 5 husbands beat their wives. Cambodian League for the Promotion & Defense of Human Rights (LICADHO) & Universite Du Quebec a Montreal, Report on the status of Cambodian women sec. 3.3.1 (2007) [hereinafter report on the status of Cambodian Women]. In India, 41% of crimes against women in 2017 were in the category of "cruelty by husbands or relatives." National Crime Records Bureau, *charts, in Crime in India* (2017).

⁸³*Supra* note 75 at 14.

⁸⁴Acid Survivors Foundation (ASF), Statistics, available at <http://www.acidsurvivors.org/statistics.html> visited on Aug. 11, 2018

⁸⁵*Supra* note 73 at 21, 24.

⁸⁶Cambodian League for the Promotion & Defense of Human Rights (LICADHO), *Living in the Shadows: Acid Attacks in Cambodia* at 7 (2003) [hereinafter *living in the shadows*].

⁸⁷Cambodian Acid Survivors Charity (CASC), *Breaking the Silence: Addressing Acid Attacks in Cambodia* at 43 (2010) [hereinafter *Breaking the Silence*]; Interview with Ziad Samman, Coordinator, Sophea Chhun, Program Manager, Dr. Horng Lairapo, Medical & Legal Manager, & Pin Domnang, Unit Coordinator & Administrative Manager, Cambodian Acid Survivors Charity (CASC), in Phnom Penh, Cambodia (Mar. 22, 2010)

⁸⁸*Supra* note 18 at 15 (describing acid violence in India as a weapon used "to negate a woman's right to exercise her choice, her assertion of independence through an act of refusal"); for Bangladesh, see Johann Hari, *Dare We Stand Up for Muslim Women?*, *Independent*, Oct. 23, 2008 (recounting how Shahnaz, age 21, was attacked by her husband because she refused to stop going to school), available at <http://www.independent.co.uk/opinion/commentators/johann-hari/johann-hari-dare-we-stand-up-for-muslimwomen-969631.html> (last visited Aug. 17, 2017); *Living in the Shadows*, *supra*, note 31, at 7 (noting that a common motivation in Cambodia is husbands "punishing" their wives for something they have done)

refused to give her salary to her husband⁸⁹ or in Cambodia when a wife initiated divorce proceedings.⁹⁰

In India and Bangladesh, a wife's parents' refusal to give more money for dowry is frequently cited as a reason for acid attacks perpetrated by the husband or the husband's family. Dowry is a practice in which the bride's family is required to give money or expensive gifts to the groom and his family.⁹¹ Although it is outlawed in both India⁹² and Bangladesh,⁹³ it is widely practiced in both countries.⁹⁴ In Bangladesh, demands for dowry were cited in 15% of the attacks studied by ASF.⁹⁵ In one case in India, Harvinder Singh went to the home of his wife's father, where his wife was living at the time.⁹⁶ He had a one-liter can filled with acid in his hand.⁹⁷ He first asked his wife, Satinder Kaur, for money.⁹⁸ When Satinder refused Singh's demands, he poured the can of acid on her.⁹⁹ Other members of Satinder's family tried to stop the attack, and Harvinder threw acid at them as well.¹⁰⁰ Satinder died the following day.¹⁰¹

The institution of dowry as practiced today¹⁰² perpetuates the notion that women are economic burdens. A husband typically attacks his wife after her

⁸⁹Jessica Salter, **The Lives and Faces Rebuilt After Acid Attacks**, Telegraph, June 5, 2009, available at <http://www.telegraph.co.uk/news/worldnews/asia/bangladesh/5454220/The-lives-and-rebuiltafter-acid-attacks.html> (last visited Jan. 5, 2017).

⁹⁰Supra note 86, at 2.

⁹¹Nidhi Gupta, Women's Human Rights and the Practice of Dowry in India: Adapting a Global Discourse to Local Demands, 48 J. Legal Pluralism 85, 103 (2003), available at <http://www.jlp.bham.ac.uk/volumes/48/gupta art.pdf>.

⁹²Id., at 104-05.

⁹³Bangladesh Dowry Prohibition Act No. 35 of 1980.

⁹⁴Supra note 36; Farah Deebe Chowdhury, **Dowry, Women, and Law in Bangladesh**, 24 International J. Law Policy Family, 198 (2010). In Cambodia, dowry was not cited as a motive for attacks. There, unlike in India and Bangladesh, the parents of the bride do not pay a dowry. Instead, the groom pays a bride price similar to a dowry to the bride's parents. Barbara Cooke & Sean Sheehan, *Cambodia (Cultures of the World)* (2nd ed. 2010).

⁹⁵Supra note 84.

⁹⁶Harvinder Singh v. State of Punjab (Punjab Haryana H.C. 2009), available at <http://indiankanoon.org/doc/1713021/> (last visited Aug. 23, 2017).

⁹⁷Id.

⁹⁸Id.

⁹⁹Id.

¹⁰⁰Id.

¹⁰¹Id.

¹⁰²Mudita Rastogi & Paul Therly, Dowry and Its Link to Violence Against Women in India: Feminist Psychological Perspectives, 7 Trauma, Violence, & Abuse 66, 67 (2006) (explaining that dowry shifted from being a gift to the bride and a kind of property specific to women to being considered as the groom's entitlement and a compensation for the "financial burden" the bride represents for her in-laws); Padma Srinivasan & Gary R. Lee, The Dowry System in Northern India: Women's Attitudes and Social Change, 66 J. Marriage & Fam. 1108, 1108 (2004) ("The

family refuses to give him money or additional money.¹⁰³ The husband may attack his wife either as a form of punishment inflicted on her for being “worthless” to him, or as revenge on the wife’s family to whom the survivor will often return, burdening the family with high medical expenses and other financial needs.¹⁰⁴

3.3.4 Land or business disputes with the victim’s family

Perpetrators motivated by land or business disputes may attack their opponents’ wives or daughters rather than their opponents themselves because of the view that attacking the female family member will harm the entire family. Land disputes are one of the leading motives for attacks in Bangladesh, a country in which land is scarce and coveted.¹⁰⁵ According to the ASF, it was the reported motive of 39% of reported acid attacks from May 1999 to 2009.¹⁰⁶ In a study of newspaper stories from India, of the reports that identified motive, nearly 20% of the attacks were between unrelated people because of business disputes, sales disputes, land disputes, or revenge between families. In contrast, reported acid attacks in Cambodia have rarely occurred over land disputes, as there has been only one reported case in which a person was attacked in a land dispute between 1985 and 2009.¹⁰⁷ Business disputes in Cambodia, however, have been reported as more common motives for acid attacks.¹⁰⁸

In land disputes, a family member often attacks a woman or girl family member of an opponent’s family because she is most vulnerable and because

modern Indian dowry system has its roots in the traditional upper-caste practices of *kanyadhan* (literal meaning: gift of the virgin bride), *varadakshina* (voluntary gifts given by the bride’s father to the groom), and *stridhan* (voluntary gifts given by relatives and friends to the bride). Traditionally, although these gifts could be significant, they were often small tokens of good wishes. More recently, however, the dowry has come to involve a substantial transfer of wealth from the bride’s family to the groom’s, and has become a major factor in marriage negotiations.”).

¹⁰³Supra note 82.

¹⁰⁴Interview with Mitu, Light House, in Bogra, Bangladesh (Dec. 8, 2010) (on file with Avon Global Center) available at <https://www.ohchr.org/Documents/.../AvonGlobalCenterforWomenandJustice.pdf> visited on Aug. 11, 2018

¹⁰⁵Bangladesh is the 8th densest country in the world, with 1,023 people per square kilometer. Current World Population, Nations Online (August 2008), http://www.nationsonline.org/oneworld/world_population.htm (last visited Nov. 8, 2010). As a result, land is scarce and coveted. Interview with Md. Mahbubul Haque, Trustee & Director, Policy Research Center, in Dhaka, Bangladesh (Dec. 10, 2009) (on file with Avon Global Center); Supra note 24, available at <https://www.ohchr.org/Documents/.../AvonGlobalCenterforWomenandJustice.pdf> visited on Aug. 11, 2018

¹⁰⁶Supra note 84.

¹⁰⁷Supra note 87 at 43.

¹⁰⁸Four percent of total reported acid attacks were categorized as business disputes. Cambodia Acid Survivors Charity (CASC), Reporting Acid Violence in Cambodia—Statistics on Causes of Attack (1985-2009) 8 (2010).

harm to her means that she will likely become a burden to her family.¹⁰⁹ The notion that women are property underlies these motives as well as the view that attacking an unmarried daughter might impose greater financial burdens on the family, as the daughter will be viewed as unmarriageable and therefore an encumbrance.¹¹⁰

3.3.5 Acid Violence Perpetuates Gender Discrimination and Inequality

Acid violence not only reflects gender discrimination and inequality but also perpetuates it. Society shuns survivors whose faces have been severely burned. Shanti, whose story told in Chapter 1 of Avon Global Center for Women and Justice Report, covers her face when she goes outside of her house to avoid stares and comments from onlookers. In Bangladesh, many people consider victims' scarred faces to be a bad omen.¹¹¹ One woman in Bangladesh said that she is shunned from weddings and that pregnant women avoid her for fear that her presence would cause their babies to be born deformed.¹¹² Moreover, one commentator in Bangladesh noted that in a society where many "girls grow up to get married," a girl's value is often measured in terms of her ability to marry and marry well.¹¹³ Thus, destroying a young girl's marriage prospects by disfiguring her can amount to ending her life by making her worthless in society's eyes.¹¹⁴

In all three countries, acid violence victims are often perceived to have committed an immoral act, such as having an extramarital affair.¹¹⁵ As a result of this alleged or real social transgression, others in their communities may view

¹⁰⁹Supra note 79, Supra note 80.

¹¹⁰Interview with Md. Mahbubul Haque Supra note 105.

¹¹¹Supra note 78.

¹¹²ABC Australia, A Brave Face, Aug. 25, 2009, transcript and video available at <http://www.journeyman.tv/?lid=59829&tmpl=transcript> (last visited Jan. 5, 2018).

¹¹³Supra note 78

¹¹⁴Id.

¹¹⁵ NGO Roundtable Discussion hosted by LICADHO, NGO Roundtable Discussion hosted by the Cambodian League for the Promotion & Defense of Human Rights (LICADHO), in Phnom Penh, Cambodia (Mar. 23, 2010) [hereinafter NGO Roundtable Discussion hosted by LICADHO] (statement by Sophea Chhun) ("And they can't detect you as well because it can be perpetrated quietly. Victims don't even know that it's acid. They think it is just water. A knife or gun is obvious. It is not so obvious with acid—there's no screaming until feeling the pain. It makes it easy for perpetrators to do it and run away.") (on file with Avon Global Center); interview with Usha, Campaign and Struggle Against Acid Attacks on Women (CSAAAW), in Bangalore, India (Jan. 19, 2010) (on file with Avon Global Center); Supra note 70.

them as outcasts and even believe that they deserved their fates.¹¹⁶ One expert in Bangladesh noted that “after an attack, if you talk to neighbors, they will say, ‘Why was this particular woman attacked? There must have been problems with her.’”¹¹⁷ In Cambodia, second wives or mistresses are generally scorned by society, and the fate of being attacked with acid is seen as a result of misdeeds in past lives.¹¹⁸ Thus, acid violence victims almost always face social stigma after the attack.¹¹⁹

Acid attacks are interpersonal acts of violence and are rarely specifically motivated by a desire to promote fear among other women. Nonetheless, individual incidents of acid attacks may make women fearful of transgressing social norms that keep them in subordinated positions. Acid violence has the effect of signaling, not only to victims, but also to all women in a society in which such violence widely occurs, that they must not counter prevailing gender norms. Acid violence is a form of gender-based violence and discrimination under international law. Thus, governments have an obligation to exercise due diligence to prevent and adequately respond to acid attacks.

3.4 The consequences of acid violence

Acid attacks are seen as one of the most vicious crimes as it causes perpetual suffering to the victim. Acid melts flesh and even the bones of a person it causes an unparalleled degree of pain to the victim and leaves her mutilated and scarred as well as giving permanent disabilities at times such as blindness. Victims face lifetime physical, social, psychological and economic consequences. The physical extents of their injuries are deep, permanent and have a direct impact on their psychological well-being and social functionality.¹²⁰

¹¹⁶Interview with Usha Ibid; Supra note 70; Supra note 87 at 34.

¹¹⁷Supra note 70.

¹¹⁸Interview with Anonymous, NGO, in Phnom Penh, Cambodia (Mar. 23, 2010) (on file with Avon Global Center) (“Many people are prejudiced against the mistress; many believe she deserves the attack.”); Jeff Smith & Kay Kimsong, AcidLaced Vengeance, Cambodia Daily Weekend, Feb. 5, 6, 2000, available at http://www.camnet.com.kh/cambodia.daily/selected_features/acid_laced_vengeance.htm (last visited Jan. 5, 2018).

¹¹⁹Supra note 115.

¹²⁰ Law Commission of India, The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Survivors of Crime: Report No. 226 (Delhi: Law Commission of India, 2008), 8.

The Consequences of Acid Violence: Medical, Psychological Social and Economic

This chapter explains how acid violence affects survivors' bodies, minds, and social and economic security. While the immediate physical consequences of acid attacks are often appreciated by the media and the courts, most people lack a comprehensive understanding of the long-term treatment required by survivors, including complex surgeries and prolonged courses of physiotherapy. Similarly, there is a significant lack of research on the psychological repercussions of acid attacks. While the psychological impact of any violent incident may be severe, the particularly brutal, visible, and gender-specific nature of acid violence sets it apart from other violent crime. Survivors of acid attacks experience a host of psychological repercussions caused by the attack itself, and they typically have difficulty learning how to live with an altered appearance that provokes negative reactions from the public. Survivors are therefore likely to require specialized long-term psychosocial care.

In contrast with their understanding of the immediate physical consequences of acid violence, both journalists and courts have largely failed to appreciate the survivor's path to reintegration into society following an attack. After an attack, survivors find it difficult to interact with their friends, family, and the public in the ways that they used to. Similarly, getting married, finding a job, or going to school present huge challenges, and many survivors become dependent on others for money, food, and care for the rest of their lives. Dealing with the social and economic consequences of acid violence can be the most frustrating and devastating aspect of the recovery process. In order to secure justice for survivors, the state has an obligation to provide a comprehensive and well-rounded course of treatment. Acid violence causes a complex, interconnected web of consequences, requiring holistic and integrated (rather than isolated) treatment. Landmark court judgments on acid attacks have largely failed to address the medical, psychological, and social and economic consequences faced by survivors.

3.4.1 Medical consequences and treatment

This part outlines the physical and medical implications of acid violence, including the immediate effect of acid on the body and the long-term repercussions, such as scarring and the risk of infections, complications, and further injury resulting from poor treatment. It then examines the various aspects of treatment a survivor is likely to require, including emergency treatment, medicines and supplies, physiotherapy, and surgery.

a. Physiological Impact of Acid on the Body

The effect of acid on the body is immediate and irreversible. The initial injuries caused by acid burns to the face and upper body result in permanent scarring, which can severely restrict movement and make simple tasks such as eating and drinking extremely difficult. Survivors also risk infections and complications from external or internal injuries, which can be exacerbated by poor treatment.

i. Immediate Consequences

Hydrochloric, sulphuric, and nitric acids, often used as cleaning products, are also cheap and accessible weapons. These highly corrosive substances rapidly dissolve skin tissue, fat and muscle when they come into contact with the body. Within seconds of an acid attack, the physical effects are already permanent and severe. Until it is thoroughly washed off with water, acid will continue to burn and penetrate skin and subsequent layers of tissue. If not sufficiently washed off, acid can even penetrate deep enough to cause serious organ damage and, given enough time, dissolve underlying bone. In many cases, victims suffer a slow and painful death.¹²¹ Burns covering more than 50 per cent of the total body surface area are almost always fatal.¹²²

¹²¹Law Commission of India, *The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Survivors of Crime: Report No. 226* (Delhi: Law Commission of India, 2008), 8.

¹²²Nick R. Waldron et al., "Acid Violence in Cambodia: The Human, Medical and Surgical Implications," *Burns* (2014), 4.

Acid causes extreme, instantaneous injuries and an “unparalleled degree of pain.”¹²³ In most cases, acid is also inhaled by the victim and attacks internal tissue in much the same way that it burns through skin, damaging and producing a toxic reaction in the lungs and causing immediate swelling in the throat. A person attacked with acid is therefore likely to experience immense breathing difficulties in the moments following the attack.¹²⁴

Acid thrown on to the face has a particularly devastating effect since it causes irreversible damage to the parts of the body most commonly used for social interaction, communication, and sensory perception. Acid will quickly burn through the soft tissue of the eyeball, causing blindness or even the loss of the eye entirely. Acid burns rapidly through lips and eyelids and destroys cartilage in the nose, causing the nostrils to close. Many survivors are rendered permanently deaf as a result of acid entering the ear canal or melting the tissue surrounding the ear. If acid reaches the scalp, it will melt follicles and cause irreversible hair loss.¹²⁵ In some cases acid is ingested, either forcibly or as a means of committing suicide. When acid is swallowed, it is likely to produce “superficial injuries to the oesophagus and deep injuries to various portions of the stomach.”¹²⁶ According to the U.S. National Library of Medicine, short-term effects of acid poisoning include breathing difficulty due to swelling of the throat and vomiting blood.¹²⁷ Acid ingestion frequently leads to significant morbidity and mortality.¹²⁸

ii. Targeted Areas

When acid is used as an instrument of violence, it is most commonly aimed at the face.¹²⁹ The upper arms, neck and chest are also frequently injured

¹²³Id. at 8.

¹²⁴Id. at 9.

¹²⁵Law Commission of India, *The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Survivors of Crime: Report No. 226* (Delhi: Law Commission of India, 2008), 10.

¹²⁶Gary E. Penner, “Acid Ingestion: Toxicology and Treatment,” *Ann Emerg Med* 9 (1980): 374-379.

¹²⁷U.S. National Library of Medicine, “Hydrochloric Acid Poisoning,” <http://www.nlm.nih.gov/medlineplus/ency/article/002498.htm> (accessed on March 6, 2018).

¹²⁸Jan-Werner Poley et al., “Ingestion of Acid and Alkaline Agents: Outcome and Prognostic Value of Early Upper Endoscopy,” *Gastrointestinal Endoscopy* 60, no. 3 (2004): 372.

¹²⁹While the face is the most common target, the gender-specific nature of acid violence in India means that perpetrators also sometimes intentionally target the genitalia and breasts, presumably, in some cases, because this expresses patriarchal ownership of the victim’s body and a corresponding entitlement to deny the victim her right to sexual autonomy.

because of their proximity to the face, while areas not located near the face, such as the legs and feet, are usually less affected. Bystanders are also often harmed, either because they were standing near the victim at the time of the attack, or because, in attempting to help the victim, acid comes into contact with their skin.

iii. Scarring

Within days of the attack, thick scars start to form over burned areas, stretching and contorting the surrounding skin. This can affect the face by, for example, permanently forcing the eyes open.¹³⁰ If the mouth is affected it can be forced closed with lips fused together, or forced open with teeth exposed. In either scenario, eating becomes extremely difficult. Cheeks can be left scarred and deformed. Acid causes the pores of the skin to melt and, after some time, survivors' skin becomes incredibly dry.¹³¹ The neck and chest often become heavily scarred, with some survivors' chins becoming fused with their chests. There is often extensive scarring in the breast area and on the arms. Scars can cause permanent disabilities if they form and stiffen around joints or parts of the body that require freedom of movement, such as the neck, shoulders and armpits. Prompt surgery and many months (if not years) of physiotherapy are required to maintain elasticity in scar tissue if these areas are affected.¹³² This is an absolutely critical part of medical treatment, a fact that is little understood. Without ample and effective physiotherapy, survivors may not be able to move their necks or upper arms, rendering them disabled in these areas.

iv. Infection and Complications

There is a high risk of infection (such as septicemia and gangrene) or complications due to internal acid injuries during the weeks and months following the attack, which can lead to further infection or even death.¹³³ In a recent study on the medical and surgical implications of acid attacks in Cambodia, five (two per cent) of the tested patients died during or after treatment. The causes of death

¹³⁰Id. at 10.

¹³¹<http://www.stopacidattacks.org/p/medical.html>.

¹³²Taiba Zia, "Acid Violence in Pakistan," UCLA Centre for the Study of Women (2013), 14.

¹³³Id. at 14.

were sepsis (two cases), pulmonary oedema, complications relating to an aesthesia, and suicide.¹³⁴

v. Further Injuries Resulting from Poor Treatment

Burns and infections can all be exacerbated by poor treatment. For example, negligent or inappropriate physiotherapy can lead to contractures (shortening of muscles or joints, causing them to become rigid and deformed). Similarly, treating burns with improper substances and materials, such as coconut oil or blankets, can cause irreparable damage.¹³⁵

b. Medical Treatment

For most survivors, medical treatment and rehabilitation should incorporate the following elements: emergency treatment, medicines and supplies, physiotherapy and surgery.

i. Emergency Treatment

This manual defines “emergency treatment” as the aid given to the survivor in the immediate aftermath of the attack, up to the point at which she is discharged from hospital. Although doctors, nurses, and paramedics should carry out emergency treatment, there is typically a delay between the attack and the arrival of medical professionals. During this period, much can be done to limit the damage caused by acid. Unfortunately, the state has done little to ensure public awareness of acid attacks and emergency care.

Acid Survivors Trust International advises the following immediate measures: Stop the burning process by first removing affected clothing (unless clothing is stuck to the patient) and then thoroughly dousing the affected areas with water for at least 30 minutes. Survivor should be taken to the nearest running water source and water should ideally be at room temperature. Attempt to neutralise the acid by applying an alkaline solution to the affected area (bi-carbonate of soda and water, for example). The patient should be taken to a medical facility as soon as possible, where treatments should be conducted in a

¹³⁴Waldron et al., “Acid Violence in Cambodia,” 3.

¹³⁵Law Commission of India, *The Inclusion of Acid Attacks*, 8-10.

sterile environment; antiseptic dressing and antibiotics should be administered.¹³⁶ Emergency treatment is often severely hampered because doctors do not have the training to address acid injuries. In some cases, doctors have applied incorrect substances, such as oils or blankets, further damaging the skin, extending the recovery period, and increasing the risk of scarring. It is imperative that the initial treatment of an acid burn is based on intensive lavage (washing with water).

The importance of administering prompt medical attention is illustrated in the case of Haseena Hussain who, after being attacked with acid by a former employer in 1991, was forced to lie in a hospital bed for three days before receiving any medical attention. As a result, Haseena says that “the acid continued to spread through my body, and my injuries got deeper and deeper. After six months, I lost one ear, after a year and a half I lost my full vision. Today, I’m totally blind.”¹³⁷

ii. Medicines and Supplies

This manual defines medicines and supplies as any prescriptions or medical products procured by the patient or her family. For example, these would include any gel sheets, anti-scar ointments, and pressure garments that survivors need to treat their burns and recover from reconstructive surgeries.¹³⁸ The costs of medical supplies can be significant. Aarti Thakur, for example, who was attacked in January 2012, paid over Rs. 4,000 for her medication in the first year of treatment which is a substantial amount for vulnerable people in India.¹³⁹ For Chanchal Paswan, attacked with acid in October 2012, medication costs exceeded Rs. five lakhs in the first few years of treatment.¹⁴⁰

¹³⁶Acid Survivors Trust International, “Pre-Hospital Approach to Acid and Burns Patient Management,” <http://www.acidviolence.org/index.php/acid-violence/first-aid-information/> (accessed on 20 August 2018).

¹³⁷Priyali Sur, “Indian Government Fails Acid Attack Survivors, Activists Say,” *Women Under Siege*, 8 August 2014.

¹³⁸Dinesh C. Sharma, “India Promises to Curb Acid Attacks,” *The Lancet* 382 (2013): 1013.

¹³⁹*Aarti Thakur v. State of Maharashtra & Ors.* WP (2014).

¹⁴⁰Writ Petition No. (s). 867 of 2013 (*Parivartan Kendra v. Union of India & Ors.*) asserts that Chanchal’s father spent Rs. 5 lakhs out of pocket for medicines alone.

iii. Physiotherapy

Although Indian courts rarely mention physiotherapy as a necessary component of treatment for burns, the medical community has long emphasised the critical role of this aspect of rehabilitation. The World Health Organisation states that “in low and middle-income countries, those who suffer even a fairly small per cent body surface area burn injury to the extremities will often develop significant disabilities from burn wound contractures . . . [which] could be prevented with simple physical therapy (physiotherapy) and rehabilitation methods.”¹⁴¹

The National Burns Centre explains the complex process of physiotherapy for burns survivors as a “changing process that may need to be modified daily. The physical rehabilitation consists of prevention of scar contracture, restoration of normal range of motion (ROM), prevention and minimization of hypertrophic scar and improvement in muscular strength and cardiovascular endurance and to help the burns survivor to return to function and performances of activities of daily living.”¹⁴²

In a letter to the editor of the medical journal *Burns* in 2000, a Chennai burn specialist described the role of physiotherapy as follows: The road to recovery from severe burns depends on prompt physical therapy and rehabilitation methods which allow the patient to lead a good quality post burn life. Aims of physical therapy are prevention of contracture, maintaining good joint movements, providing good muscle tone and preventing scarring and deformities. This is achieved by splinting, with active and passive exercises as early as possible.¹⁴³

iv. Surgery

Surgery is by far the most complex and expensive aspect of rehabilitation. The Indian Law Commission reports that “survivors of acid attack need both

¹⁴¹World Health Organisation, *A WHO Plan for Burn Prevention and Care* (2008): 5.

¹⁴²National Burns Centre: Department of Physiotherapy, “Physiotherapy Management in Burns,” <http://www.burns-india.com/physiotherapy.htm> (accessed 6 August 2014).

¹⁴³V. Alamelu, Letter to the Editor: Burns treatments — then and now in India, 26 *Burns* (2000): 75-76.

short-term as well as long-term specialised medical treatments and plastic surgeries”¹⁴⁴ costing many lakhs of rupees.¹⁴⁵ The type of surgery required for acid burns is dependent on the extent and nature of the patient’s injuries. Severely injured patients are, understandably, more likely to need a greater number of operations than patients with less severe injuries. The most common surgeries performed on acid attack victims are debridement (removal of dead or damaged tissue), skin-grafting, and z-plasties (improvement of cosmetic appearance of scars).¹⁴⁶ The most difficult aspect of surgery for acid burns is the complex facial surgery. Experts state that the face “represent[s] the most demanding and complex challenge for the reconstructive surgeon [since the face] features three-dimensional structures that are difficult to reconstruct.”¹⁴⁷ The number of surgeries required varies and is highly dependent on the severity of the patient’s injuries. While those with relatively mild injuries will typically need no more than 10 surgeries, exceptional cases can necessitate more than 20 surgeries. For example, the case of Sonali Mukherjee, who required 22 surgeries after an attack in 2008, has been well documented in the Indian and international press.¹⁴⁸ Monica Singh, attacked with acid by a spurned suitor, has undergone over 40 reconstructive surgeries in the nine years since she received her injuries.¹⁴⁹ Acid ingestion entails exceptionally complex medical procedures that are so far “poorly understood.”¹⁵⁰ Many doctors are unaware of the internal injury pattern of acid and the length of time acid continues to burn, especially since (unlike other corrosive substances) acid continues to damage tissue for a long period of time after contact. Internal acid burns are often incorrectly regarded as similar to burns

¹⁴⁴Law Commission of India, *The Inclusion of Acid Attacks*, 6.

¹⁴⁵*Id.* at 39.

¹⁴⁶Waldron et al., “Acid Violence in Cambodia,” 3.

¹⁴⁷C. Tahir, B.M. Ibrahim, E.H. Terna-Yawe, “Chemical Burns from Assault: A Review of Seven Cases Seen in a Nigerian Tertiary Institution,” *Annals of Burns and Fire Disasters* 25, no. 3 (2012): 126.

¹⁴⁸“Give Me Justice or Let me Die,” *The Daily Mail*, 16 July 2012 (reporting that even after 22 surgeries, acid survivor Sonali Mukherjee still needs many more surgeries costing Rs. 10-15 lakhs); “Sonali Mukherjee – Acid Attack Survivor who became a TV Millionaire,” *Hindustan Times*, 23 December 2012.

¹⁴⁹“Acid Attack and 43 Surgeries Later, She Fashions a Fresh Start,” *The Times of India*, 20 July 2014.

¹⁵⁰Penner, “Acid Ingestion,” 1.

caused by alkali or bleach and treated as such, which can have further damaging effects on the patient's internal injuries.¹⁵¹

Special Note on the Costs of Surgery

Surgery is by far the most expensive aspect of a survivor's treatment. The cost of surgery depends upon the extent of the survivor's injuries. Moreover, as a result of inadequate training and resources, Indian survivors generally do not receive the full range of required surgeries, which artificially depresses perceptions of the cost and average number of surgeries required. Based on past cases, the cost of surgery over a lifetime can be estimated at anywhere between Rs. 3 to 50 lakhs. For example, Aarti Thakur spent around Rs. 2 lakhs on medical treatment in her first year of treatment. This included three skin-grafting surgeries costing over Rs. 1 lakh in total, surgery to correct atrophy of the eyelid costing over Rs. 31,000, and further surgery for excision of scars costing over Rs. 50,000. Medical staff estimated that the cost of further skin-grafting surgeries could exceed Rs. 3 lakhs. The total cost of surgery for Aarti is therefore estimated to be at least Rs. 5 lakhs.¹⁵² For some patients, the projected cost of surgery can be twice this figure. Chanchal Paswan received severe burns to her face, neck, and chest in October 2012, which medical staff estimated would cost up to Rs. 10 lakhs to treat. Even after Sonali Mukerjee's family sold their ancestral land and jewelry to pay for treatment after her attack in 2003, doctors estimate that she will require an additional Rs. 10 to 15 lakhs in surgeries to allow her to look "even remotely human."¹⁵³ While many patients have incurred medical costs in excess of Rs. 10 lakhs and the National Commission for Women has suggested that the costs of treatment could reach up to Rs. 30 lakhs¹⁵⁴ in some cases, the cost of surgeries sometimes exceeds even this upper estimate. Monica Singh's treatment, for example, has cost her nearly Rs. 50 lakhs. The most recent Supreme Court order on acid attacks obligates states to provide a minimum compensation of Rs. 3 lakhs. Even if every rupee of this compensation were put towards surgeries, this

¹⁵¹*Id.* at 31.

¹⁵²*Aarti Thakur v. State of Maharashtra & Ors.* WP (2014).

¹⁵³"Give me Justice," Daily Mail.

¹⁵⁴National Commission for Women, Annual Report (Delhi, 2008-2009): 31.

would still not be anywhere near enough to cover even the most basic medical treatment for the vast majority of acid attack survivors.

3.4.2 Psychological consequences and treatment

This section covers the range of psychological consequences experienced by survivors, including the emotional effect of living with disfigurement, the psychological impact of the assault itself, and the repercussions of acid violence as a form of domestic violence. This section explores possible treatment options for survivors. Since the therapeutic and counselling needs of acid attack survivors has been little investigated by either the media or academics, this section looks to the kinds of treatment used for other forms of gender-based violence.

a. Psychological Consequences

Since many survivors of acid violence must live with physical scars or acute facial disfigurement, it is not surprising that the psychological repercussions are severe and manifold. Living with injuries that often evoke stunned and even hostile reactions from people leads many survivors to depression and, in some cases, suicide. Memories of the assault itself can also lead to stress or mental illness. Psychological repercussions are particularly significant in cases in which the acid attack was a form of domestic violence.

i. Psychological Impact of Living with Disfigurement

Acid attack perpetrators usually target the face, for the obvious reason that the face is heavily associated with a person's identity and social perceptions of attractiveness. This can have far-reaching psychological, as well as social repercussions

According to Dr. Malcolm Roth, President of the American Society of Plastic Surgeons in 2012: Our face defines us, provides information about our age, gender, and ethnicity, and is central to communication and our recognition by others. Thus, an attack that disfigures the face is not merely the imposition of a physical limitation, as in the case of a loss of a hand or an arm, but it has the potential to transform how others see and treat the victim. Again, individuals that fall outside of appearance norms due to severe facial deformity or disfigurement

often experience psychological suffering and social isolation.¹⁵⁵ Thus, by causing facial disfigurement, attackers seek to inflict not just physical pain, but a life sentence of emotional and psychological trauma. Most acid attack survivors are scarred for life. Although surgery can go a long way toward correcting the damage caused by acid, no amount of surgery or therapy can fully ‘undo’ a survivor’s physical (or psychological) injuries. For many survivors, the process of coming to terms with the permanent nature of their disfigurement can lead to feelings of self-hatred, worthlessness, and shame. Many suffer from severe self-consciousness about their appearance, fuelled by negative reactions from the people they come into contact with. A desire to avoid such reactions and a fear of facing the outside world cause some acid attack survivors to lead an introverted and socially detached life. The combined effect of such acute mental suffering drives many survivors to suicide. The degree of psychological impact of an attack does not necessarily correlate with the extent of the survivor’s injuries. For most it is the nature of the crime and the survivor’s perceived severity of their injuries that tend to have the most significant psychosocial impact.¹⁵⁶ Thus, courts and the media step into pernicious territory when they attempt to determine the extent of psychological trauma based on the severity of a survivor’s injuries.

ii. Psychological Impact of Assault

Mental illness, anxiety, and shock are a very common consequence of acid violence. In the immediate aftermath of the attack, survivors are likely to struggle with insomnia, nightmares, flashbacks, post-traumatic stress disorder (PTSD), and shock. Many survivors battle suicidal thoughts as they attempt to come to terms with what has happened to them. The long-term repercussions include anxiety, mood swings, depression, fear of future attacks, intense feelings of shame or guilt, and a tendency to dwell on the reasons for the assault. Many survivors require long-term therapy to address the physiological impacts of an attack.

¹⁵⁵Mikaela Conley, “Acid Attack Victim Fakhra Yunus Commits Suicide,” ABC News, 28 March 2012, <http://abcnews.go.com/Health/victim-acid-attack-commits-suicide/story?id=16011971> (accessed 16 August 2018) (quoting Roth).

¹⁵⁶Mannan et al., “Psychosocial Outcomes Derived from an Acid Burned Population in Bangladesh, and Comparison with Western norms,” *Burns* 32 (2006): 235-241.

iii. Psychological Impact of Domestic Violence

When acid attack is used as a form of domestic violence, it has an especially traumatic psychological impact. Most survivors are women, and in many cases, husbands carry out attacks. It is therefore likely that a survivor will find herself face-to-face with her attacker on a regular basis and live in fear of further attacks. Studies have found that the trauma-related effects of domestic violence are intensified when the attacker is someone on whom they depend for economic or emotional support, “a reality that compounds the psychological consequences of the abuse . . . and exacerbates their feelings of vulnerability, loss, betrayal, and hopelessness. Abused women frequently become isolated and withdrawn.”¹⁵⁷

In terms of acid violence specifically, it has been shown that psychological repercussions are likely to be significantly heightened and prolonged when the perpetrator was a relative or spouse of the survivor.¹⁵⁸ Acid attack survivors are therefore extremely vulnerable to severe psychological consequences that need to be addressed through long-term treatment.

b. Psychological Treatment

Little documentation, academic literature, or survivor testimony directly addresses the types of psychological treatment required for acid attack victims. However, facial disfigurement and gender-based violence are not unknown problems to science or law, and any research or legal discussion focusing on these issues can be applied in the case of acid attacks. Thus, there is a basis on which to understand the psychological needs of acid attack survivors. Unfortunately, however, acid attack survivors’ psychological needs are not being met, either because such treatment is simply not available, or because the survivor is unable to fund it. Aarti Thakur, attacked in January 2012, could not receive psychological or psychiatric treatment due to her limited financial circumstances, even though medical experts recommended such treatment.¹⁵⁹

¹⁵⁷L. Heise, “Violence Against Women: The Missing Agenda,” in *Women’s Health: A Global Perspective*, ed. M. Koblinski et al. (Westview, Boulder, 1993): 171-195.

¹⁵⁸*Id.* at 237

¹⁵⁹*Aarti Thakur v. State of Maharashtra & Ors.* WP (2014).

i. Consensus on the need for Long-Term Psychological Counseling

The 2013 Report of the Committee on Amendments to Criminal Law contains an amendment entitled “Psychological Interventions in Sexual Assault/Rape,” which recommends that all survivors receive a course of psychological counseling. Counselors are advised to be calm and respectful of the survivor, to assure her the attack was not her fault, and to validate the emotions she is feeling. The survivor should be given the space and confidence to talk about her experience and counseling should be empathetic and non-judgemental. Counselors are also encouraged to provide information to the survivor about hospital procedures and medical examinations, and to help her make informed decisions about her treatment.¹⁶⁰

The UK Counseling Directory recommends counseling as “an important tool for the victim to help overcome the trauma, recover and rebuild their life. It provides a safe environment where the victim can work through their issues, helping them to get their life back on track and be able to move on.”¹⁶¹

ii. Therapy to Alleviate the Psychological Impact of Living with Disfigurement

A number of studies have researched the benefits of therapy to treat those living with facial disfigurement, whether present at birth, congenital, or acquired later in life through illness, accident, or violence. Cognitive Behavioural Therapy (CBT) has been found to be a particularly useful approach in treating disorders of body image. Even short courses of CBT can improve self-esteem, quality of life, and body image in patients suffering from extreme self-consciousness.¹⁶² CBT aims to positively alter the way that patients think about their appearance and the reactions that their appearance elicits from others. Mutual support and self-help can be another useful form of treatment for survivors. Providing a platform for survivors to share their experiences, such as self-help groups specifically for

¹⁶⁰Justice J.S. Verma, Justice Leila Seth & Gopal Subramaniam, Report of the Committee on Amendments to Criminal Law 471-476 (2013).

¹⁶¹“Domestic Violence,” Counseling Directory, <http://www.counselling-directory.org.uk/domestic-violence.html#whatshouldbelookingforinacounselororpsychotherapist> (accessed August 18, 2014).

¹⁶²A. Clarke, “Psychosocial Aspects of Facial Disfigurement: Problems, Management and the Role of a Lay-led Organisation,” *Psychology, Health & Medicine* 4, No. 2 (1999): 134.

survivors of acid violence, can be useful sources of support for, and information about, coping with physical appearance or social concerns.

3.4.3 Social Consequences

For many survivors, the long-term consequences of medical and psychological damage are compounded by lifelong social and economic consequences. Negative or unsympathetic behaviour towards the survivor from family or community can lead to the breakdown of familial relationships and a sense of remoteness from friends and neighbours, exacerbating the survivor's sense of isolation. For some, the loss of familial support also means a loss of economic surety, and many survivors are left with little emotional, financial, or social support in the aftermath of their attack. At the same time, finding adequate employment is a perpetual struggle for many survivors. Employers discriminate based on the survivor's disfigurement and rarely hire survivors regardless of their qualifications, especially in service industries. The survivor is likely to find herself trapped in a life of poverty and depression. Requiring the government to provide social and economic stability for survivors is therefore one of the most important and urgent tasks of the courts. While the government may currently provide survivors with some medical support and perhaps even have plans to provide psychological support in a handful of states, the government rarely provides any form of social or economic assistance. Thus, many survivors feel abandoned and confused. For many, the social and economic consequences of an acid attack are the most pressing and difficult aspects of rehabilitation.

a. Familial and Marital Disruption

Familial relationships can break down in the wake of an acid attack. The financial and social implications can be equally dire for the survivor's close family members, who may suddenly find themselves under an enormous amount of pressure to pay for medical treatment, care for the survivor, and assist her to secure justice. Some family members may feel ashamed or disgusted by the survivor's altered appearance, or they may even blame the survivor for the attack. Worse, many survivors find themselves rejected or abused by their families. Speaking at a national consultation on acid violence in July 2014, acid attack

survivor spoke about the fragmentation of her family in the wake of her attack, saying “my relatives used to come to see me but they have now broken off.”¹⁶³ For unmarried women, disfigurement caused by an acid attack reduces their opportunities for marriage and having children, while survivors who were married at the time of their attack are at increased risk of abandonment by their husbands and face potential loss of contact with their children. In a society in which many women depend on their husbands for their every economic need, being single can have devastating financial implications. Without a spouse or a family that is financially able and willing to support them, many acid attack survivors are left with no choice but to seek employment – a daunting prospect. For women who have been attacked by their husbands, the social and economic impacts can be particularly devastating. It is likely that the survivor will be unable to live independently of her attacker due to economic dependency, difficulties gaining a divorce, or a desire to avoid the social stigma attached to divorce. Married women are also less likely to report their husband to the police for similar reasons. Fear of social stigma, fear of retribution, economic dependence, or mistrust of the criminal justice system encourages many wives to conceal their abuse from the authorities, and thus protect their husbands from the law.¹⁶⁴ Many women accept domestic violence as their husband’s right and as a normal facet of married life, and continue not only to live with their husband, but to suffer further abuse at his hands.¹⁶⁵ For many women, the threat of acid violence is enough to keep them trapped in an abusive or unhappy marriage.¹⁶⁶

b. Stigmatization and Withdrawal from Society

The concept of stigma and its implications for people living with disfigurement is extremely important, as sociologist Erving Goffman has emphasised. He describes stigma as: The situation of persons who are unable to conform to standards that society calls normal. Disqualified from full social acceptance, they are stigmatized individuals. Physically deformed people . . . must

¹⁶³Quote from Sapna’s testimony presented at national consultation, *Using the Law to Combat Violence Against Women*, New Delhi, 12 July 2014 (Transl. by Salina Wilson).

¹⁶⁴Taiba Zia, “Acid Violence in Pakistan,” (paper presented at the UCLA conference *Thinking Gender*, February 2013), 9.

¹⁶⁵*Id.* at 8.

¹⁶⁶*Id.* at 15.

constantly strive to adjust to their precarious social identities. Their image of themselves must daily confront and be affronted by the image which others reflect back to them.”¹⁶⁷ A fear of stigmatization and rejection creates a barrier between the survivor and the world around them, making it very difficult for survivors to socialise and form relationships. For some survivors, being seen in public is unbearable. They fear they will be stared at, ridiculed, or mistreated, or that they will be blamed for the attack. For many acid attack survivors, the inevitable outcome of living with disfigurement is withdrawal and ostracism from society. Consequently, many survivors become confined to their homes, living out years or even the rest of their lives concealed from public view.¹⁶⁸ Survivor Laxmi recalls hiding indoors for eight years following an acid attack by a spurned marital suitor in 2005 that left her with severe facial scarring. The few times she ventured outdoors, she would cover her face.¹⁶⁹ Withdrawing from society has the obvious consequence that the survivor will have vastly reduced opportunities for friendship, marriage, education, and employment. Since the precise number of acid attack victims in India is still unknown, it is not inconceivable to imagine that a large number of women throughout the country are currently living secluded and hopeless lives as a result of acid violence. As suggested by experts on facial disfigurement, “there are countless numbers of disfigured persons among us who keep a low profile. By seeking refuge in their small circumscribed worlds and shunning face-to-face encounters, they remain a hidden people, a fact that accounts for the widespread ignorance of a major social problem.”¹⁷⁰

3.4.4 Economic consequences

a. Loss of Financial Support

The economic implications of acid violence are equally dire. With specialised treatment costing many lakhs of rupees over a number of years, virtually all acid attack survivors face the prospect of losing all savings and taking on an overwhelming amount of debt. For survivors who are abandoned by the

¹⁶⁷Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (1986).

¹⁶⁸Law Commission of India, *The Inclusion of Acid Attacks*, 8.

¹⁶⁹Harinder Baweja, “Don’t stare at me I am human too: acid attack survivor Laxmi,” *The Hindustan Times*, 20 July 2013.

¹⁷⁰Frances Cooke Macgregor, “Facial Disfigurement: Problems and Management of Social Interaction and Implications for Mental Health,” *Aesthetic Plastic Surgery* 14 (1990): 249- 257.

people around them, this threat is ever more real, since they will very likely lose the financial support of their families, husbands, and communities. For many, surviving the attack itself is overshadowed by the struggle to survive in a financially insecure and threatening world. According to the Indian Law Commission report of 2009, acid attack survivors are often left without any economic resource whatsoever and many “become dependent on others for food and money.”¹⁷¹

b. Reduced Earning Potential

Furthermore, the consequences of an acid attack dramatically limit a survivor’s present and future earning potential. Prolonged courses of treatment and surgery mean that a survivor may be unable to attend work or school for many months (if not years) following an attack. It often becomes extremely difficult for a survivor to secure employment, since physical disfigurement, disabilities, and psychological issues are likely to impact their ‘attractiveness’ to potential employers. Consequently, many acid attack survivors are automatically rejected from jobs before they have had a chance to demonstrate their qualifications or experience. Sapna has spoken about her struggle to find a job since she was attacked with acid in August 2012, explaining that “when [interviewers] see my face they try to find excuses for not giving me the job.”¹⁷² Similarly, in the years after she was attacked, Laxmi desperately tried to find employment but was consistently turned away: “I tried to pick up a job but nobody was willing to hire me. Some said: ‘People will get scared if they see you.’ Others said they will call back but, of course, the phone never rang. I tried Business Process Outsourcing (BPOs), banks and beauty parlours but all I got was rejection. Nobody wants to hire acid victims because of the way they look.”¹⁷³

3.4.5 Social Reintegration Assistance

Many, acid attack survivors experience immense difficulties integrating back into society. In particular, survivors require assistance in overcoming legal

¹⁷¹Law Commission of India, *The Inclusion of Acid Attacks*, 13.

¹⁷²Quote from Sapna’s testimony presented at national consultation, *Using the Law to Combat Violence Against Women*, New Delhi, 12 July 2014 (Transl. by Salina Wilson).

¹⁷³Harinder Baweja, “Don’t stare at me,” *Hindustan Times* (quoting Laxmi).

hurdles associated with gaining justice and compensation, completing schooling, gaining employment, and obtaining housing.

a. Legal Assistance

Since some survivors file a First Information Report (FIR), they will be thrust into a complex criminal justice system for which they will later require legal assistance. A legal advocate is crucial to help survivors navigate the criminal justice system and protect themselves and their loved ones. In domestic violence situations (e.g., for obtaining restraining orders or for securing custody of children from an abusive husband), the state should provide legal assistance to acid survivors as an essential service on the path to social reintegration. Legal assistance helps survivors assert their legal rights to compensation and rehabilitation services that will be critical in improving their quality of life.¹⁷⁴

b. Education and Occupational Training Assistance

Many survivors are teenage girls, who find their education disrupted as a result of their attack. For example, Chanchal Paswan lost a year of her studies as a result of the attack.¹⁷⁵ Alternatively, a survivor may have to rethink established career plans and retrain for a different line of work. These decisions are extremely difficult for an acid attack survivor who is likely to be experiencing physical, financial, and psychological difficulties. To ensure justice and rehabilitation, the state should provide assistance and support in these areas. School-age survivors and those wishing to pursue occupational training must be provided with adequate financial, logistic, and psychological support. Survivors may need specialized counseling to help them understand what options are open to them, including guidance on how to access these opportunities.

c. Employment Assistance

Similarly, survivors who find themselves rejected from jobs urgently require assistance to ensure they are not left without any income. Many acid attack survivors who cannot rely on a husband or a family urgently need to earn a

¹⁷⁴Delhi Domestic 5(1)–(6) (finding that Articles 21 and 38(1) of the Constitution require that the Government provide rape survivors with legal representation).

¹⁷⁵Writ Petition No. (s). 867 of 2013 (*Parivartan Kendra v. Union of India & Ors.*)

living. However, survivors often find themselves turned away from jobs as a result of their atypical appearance. Anu, from Delhi, struggled to find work after she was attacked in 2004. Only in the past year (2013) has she been able to find employment, thanks to a Supreme Court judge who secured her a government position.¹⁷⁶ Cases like this demonstrate that while many acid attack survivors are perfectly capable of doing work, they need the support to find employment.

d. Housing Assistance

Survivors often need new housing after an attack. This could be for a variety of reasons, including that the survivor:

- Was attacked by her family;
- Was abandoned by her family after the attack (e.g. Because she was seen as a burden);
- Was attacked in her home and cannot cope psychologically with continuing to live at the site of her attack;
- Was evicted from her home;
- Needs to relocate because of threats of further violence from her attacker (e.g. For filing a fir or cooperating with law enforcement officials);
- Needs to relocate to a home that accommodates post-attack disabilities;
- Needs to relocate to be closer to family members who can provide support or care; or
- Needs to relocate in order to be closer to health facilities where she receives treatment.

Many survivors are overwhelmed by the thought of finding housing in the immediate aftermath of an attack (perhaps as early as on being discharged from hospital). Many face discrimination from landlords (e.g., because of their disfigurement, psychological trauma, or the perceived likelihood of a future attack occurring). Also, many survivors are young women who may have no experience securing housing on their own. For all of these reasons, the state should assist survivors with finding and securing new housing.

¹⁷⁶Quote from Anu's testimony presented at national consultation, using the Law to Combat Violence Against Women, New Delhi, 12 July 2014.

The consequences of an acid attack are manifold. The bodily and facial injuries caused by acid can lead to severe and widespread scarring, loss of vision, loss of hearing, and life-threatening internal damage. Survivors require many months, if not years, of complex surgeries and physiotherapy to regain a semblance of their former appearance and mobility. The psychological repercussions of acid violence, which can include shock, extreme self-consciousness, and depression, require extensive and specific treatment in the form of counseling and self-help groups. Similarly, the social and economic ramifications of an acid attack are complex and in many cases, overwhelming. Survivors will very likely find themselves isolated as a result of their altered appearance, and potentially the subject of derision or abuse from the people around them. Many survivors find themselves in a position in which they must support themselves financially, but are unable to do so due to discrimination on the part of potential employers. Rehabilitative assistance for survivors should therefore take the form of guidance and counseling on the choices and opportunities available to them in terms of education, occupational training, and employment. Similarly, many survivors require assistance understanding and maneuvering their way through a complex criminal justice system. The following table outlines the myriad consequences of acid violence and the steps the state must take to ensure rehabilitation.

Chapter – 4(A)

CONCEPT ORIGIN AND DEVELOPMENT OF COMPENSATORY JURISPRUDENCE

“It may be noted that this power of courts to award compensation is not ancillary to other sentences but it is in addition there to. This power was intended to do something to reassure the victim that he or she is not forgotten in the criminal justice system. It is a measure of responding appropriately to crime as well as of concealing the victim with the offender. It is, to some extent, a constructive approach to crimes. It is intended a step forward in our criminal justice system.”

- Supreme Court of India in Hari Singh v. Sukhbir Singh, 1988

Compensation to victims is a recognised principle of law being enforced through the ordinary civil courts. Under the law of torts, the victims can claim compensation for the injury to the person or property suffered by them. It is taking decades for the victims to get a decree for damages or compensation through civil courts, which is resulting in so much hardship to them.¹ The interests of victims in crime cannot be ignored and should not be left to their fate unnoticed by the society. It should be victim oriented rather than offender oriented. There is no comprehensive legislation in India which provides compensation by the State or by the offender to the victim of crime. The judiciary derives its power to award compensation from the numerous laws in order to assist and rehabilitate the victims and it is a matter of discretion of the courts to award compensation.² The emergence of *compensatory jurisprudence* in the light of human rights philosophy is a positive signal indicating that the judiciary has undertaken the task of protecting the right to life and personal liberty of all the people irrespective of

¹Dr. Sunita Arya *Compensatory Judicial Jurisprudence through Constitutional and Legal Provisions*, *Altius Shodh Journal of Management and Commerce*, (2011).

²Available at shodhganga.inflibnet.ac.in/bitstream/10603/28181/.../10_chapter%203.pdf visited on August 2, 2016

the absence of any express constitutional provision and of judicial precedents.³ The idea behind providing compensation is legal as well as humanitarian. ***Compensatory Jurisprudence*** became an essential part of criminal justice system of India in the recent past. This chapter aims to trace the concept origin & development of ***compensatory jurisprudence*** with regard to physical crimes against women victims. Through this chapter researcher wants to emphasize that it is equally important to provide adequate compensation for the victims and initiate a meaningful rehabilitation program. Further this chapter also analyses judicial responses against victims of crimes and ***compensatory jurisprudence***.

4(A).1 Idea Behind the Concept of Compensation to the Victim of Crime

The reactions to crime have been different at different stages of human civilization. There are number of theories available pertaining to 'Reaction to crime'. Important among these theories are Retribution theory, Utilitarian theory, Deterrent theory etc. In common, every theory provides justification punishment. We can summarise the objects of punishment as:

- a) making example of the criminal;
- b) deterring the criminal from repeating the same act;
- c) reforming the criminal by eradicating the evil will; and
- d) satisfying society's feeling of vengeance which the act is supposed to evoke.

The law in the early stages of civilization was to compensate the victim and not to punish the offender. Narada was the first to recommend compensation to the victims by the offender in order to expiate his sins. "If we go back to the origin of criminal law, we see that the victim and his family occupy a central position: it is the victim and his family who have the right to request revenge or penitence. However, over the centuries, with the evolution of the state and the organization of state prosecution the role of the victim has changed: from his central position the victim has been shifted to a marginal one."⁴

³Dr. Sunita Arya *Compensatory Judicial Jurisprudence Through Constitutional and Legal Provisions*, *Altius Shodh Journal of Management and Commerce*, (2011).

⁴ Ibid.

In place of retaliatory principal of ‘an eye for an eye’ itself and advance over indiscriminate retaliation society was now ready to accept money or goods as symbolic compensation and restitution for crimes. Cultural, social economic evolution thus made it possible to translate physical injury or mental anguish into commodities and to equate them. Payment was made directly to the victim or his family, and it varied according to the nature of the offence and the age, rank and sex of the offended person. As the modern State slowly evolved, the compensation that once had been exacted to counterbalance the victim’s loss and to symbolize his revenge became a fine benefiting the State and intended to punish the offender. The interests of the victim were subordinated to those claimed by the government, the representative of the community’s larger concerns.⁵

4(A).2 Concept of Victimology

“The word Victimology is a new coinage and has gained considerable importance due to the untiring work of Miss Margaret Fry of the John Howard Association of England, Benjamin Mendelsohn, who in 1937 developed a scientific method for the study of the criminal act which utilized biopsychosocial data on the criminal, on the victim and on the witnesses bystanders, and the World Society of Victimology having been himself the victim of discrimination, Mendelsohn became interested in the victim and in his/hers relationship with the criminal.” Schafer defines Victimology as “the study of criminal victim relationship”. Drapin and Viano define it as “that branch of criminology which primarily studies the victim of crime and everything that is concerned with such a victim”. In the words of Fattah: “While studying biological, sociological, psychological, and criminological details about the victim-victimology brings into focus the victim-offender relationship and role played by victim.”⁶

The 7th United Nations Congress on Prevention of Crime and Treatment of Offenders came out with a declaration of basic principles of Justice of Victims of crime and abuse of power, which was later adopted by the U.N. General

⁵Kadish, Sanford H., Encyclopedia of crime and justice, Vol. 4, The Free Press, Collier Macmillan Publishers, London, 1993, p.1611.

⁶Dr. Sunita Arya Compensatory Judicial Jurisprudence Through Constitutional and Legal Provisions, Altius Shodh Journal of Management and Commerce, (2011) ISSN 2348 – 8891

Assembly. In the declaration, the U.N. defined the "Victims of Crime" as follows⁷:

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws prescribing criminal abuse of power.
2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization. Victims are several time suffering emotionally the most.

The definition of the word *victim* in Section 2(wa) inserted by Amendment Act 2008 in Cr.PC, defines as: "*Victim* means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression *victim* includes his or her guardian or legal heir". This definition of the word *victim* is quite narrower than that of international approach in the 1985 Declaration of UN in its resolution no. 40/34 of General Assembly.⁸

4(A). 3 History of Compensation of the victims of Crime

History of payment of compensation by State may be traced in *The Hammurabi Code of ancient Babylonian*⁹ which makes the earliest reference to State Compensation for Victims of Crime. It provides that "if the robber is not caught, then shall he who was robbed claim under oath the amount of his loss; then shall the community, on whose ground and territory and in whose domain it

⁷Ibid.

⁸ S. 2 (wa) Criminal law Amendment Act 2013

⁹The Code of Hammurabi, a Collection of 282 laws inscribed on an upright stone pillar, was found by French archaeologists in 1901, while excavating the ancient city of Susa, which is in modern-day Iran (Translated by L.W. King). Hammurabi is the best known and most celebrated of all Mesopotamian Kings. He ruled the Babylonian Empire from 1792-50 B.C.E.

was, compensate him for the goods stolen. If persons are stolen, then shall the community pay one *mina* of silver to their relatives” This principle was well accepted in *England in the Anglo-Saxon Period* of the Seventh Century. The Kentish laws of Ethel best contained specified amounts of compensation for a large number of crimes ranging from murder to adultery.

In the early *Common Law of Middle England*, if a man was murdered, the victim’s family was entitled to a *wergild* of four pounds. Over time, the Criminal justice system was separated from the civil system due to the simultaneous growth of Royal and Ecclesiastical Power¹⁰ offences like murder, robbery and rape did not remain within the category of tort to be settled by compensation but were regarded as crimes against society and were punishable as such. Hence, State compensation disappeared and the State played a punitive role, imposing punishment for not only the harm done to individual crimes but also harm done to the King or feudal lord.

The doctrine of State compensation to victim again attracted attention of sociologists and jurist in Europe during the Nineteenth century. **Jeremy Bentham** (1748-1832), a British philosopher, Jurist and social reformer, believed that due to the presence of the social contract between State and the Citizen, victims of crime should be compensated, when their property or person was violated. It is the role of the State to prevent crime and protect people and property. If the State is unable to prevent a crime it falls upon the State to support the victim. State compensation is further justified because it is the political, economic and social institutions of the State that generate poverty, discriminations, unemployment and insecurity. The justification for compensation has not been fully accepted. Despite the activism of Penologists like **Jeremy Bentham** the acceptance of the principles of compensation to the victims remained unfulfilled. During the 1950s **Margery Fry**, an English Penal reformer called refocusing on the plight of victims and the bestowing of effective remedies on victims such as State Compensation. This heralded the establishment of State Compensation Programmes in the American and European jurisdictions. The modern approach of victimology acknowledges

¹⁰Kaushal Kishor Bajpai, *The History of compensation of the victims of Crime*, AIR; WEB WORLD, available at <http://airwebworld.com/articles/index.php?article=1058>.

that a crime victim has right to be adequately compensated, rehabilitated and repaired irrespective of identification and prosecution of offender and the payment of such compensation should be made by the State.

Britain set up a *non-statutory programme* in 1964, which was administered by the *Criminal Injuries Compensation Board* and the funds being sanctioned by the Parliament annually. This programme was given statutory form in the **Criminal Injuries Compensation Act, 1995**¹¹. The move towards State compensation was mirrored in the United States, with California being the first State to do so in 1965. In **1984 the Victims of Crime Act** was enacted by the Congress, which established a *Crime Victims Fund* within the US Treasury. The need for a victim compensation framework has been recognized by the international community. **The Universal Declaration of Human Rights, 1948's** Article 9 states that no one "shall be subject to arbitrary arrest, detention...." By reading the procedural guarantees provided under Articles 6, 7 and 8, one could infer that for the violation of such rights the victim is entitled to an *effective remedy*.

The necessity for compensating victims of crime was emphasized and crystallized in **the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985** and the 2006 Basic Principles and Guidelines on the Right to a Remedy and Reparation for victims of Gross violations of International Human Rights Law and Serious Violations of International Humanitarian Law. The former deals with the victims of domestic crimes, while the latter with victim of international crimes. **The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985** declaration treated as Magna Carta of rights of victims globally which envisages the basic norms to be adhered to for the recognition of victim's rights viz., right to information, treatment, restitution and compensation.¹²

Furthermore, **the International Covenant on Civil and Political Rights, 1966** states that a victim of unlawful arrest or detention shall have an enforceable

¹¹ Terence Morris, *British Criminology: 1935-49*, Brit. J. Criminology 20 (1988)

¹²Dr. Janardan Kumar Tiwari, "Status of victims in criminal Justice system" Volume I - Issue 4, B L R, p. 111(2013).

right to compensation. **The European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950**, has an identical provision. *American Convention on Human Rights, 1969*, entitles a person to compensation in case of miscarriage of justice due to wrong sentencing.

In *India* recent time, it can be seen that the solidarity of the public to express their sympathy towards the victims has increased. The apex court of our country also started adding new dimension to criminal law by awarding compensation to the victims of crime by invoking Article 21 of the constitution of India which resulted in the concept of ***compensatory jurisprudence*** in our country.¹³ Specific provision for compensation to victim was inserted in ***Criminal Procedure Code of 1973***, as section 357A in pursuance of the recommendation of the *Law Commission in its Forty-first Report (1969)*. This provision states that “Court may award compensation to victims of crime at the time of passing of the judgment, if it considers it appropriate in a particular case, in the interest of justice”.

4(A).4 Recommendations of Commissions and Committees on Justice to Victims in India

During recent decades, there has been significant change in the thinking of the judiciary about the human rights of victims. The concern of the courts and the judicial commissions and committees about the need to have a law on victim compensation or a comprehensive law on victim justice has been reflected in their judgments and reports.

4(A).4.1 The Law Commission of India, 1996¹⁴

The Law Commission, in its report in 1996, stated that, “The State should accept the principle of providing assistance to victim out of its own funds, (i) in cases of acquittals; or (ii) where the offender is not traceable, but the victim is

¹³ Article 21 provides for the protection of life and personal liberty of a person in our country by the state, however Supreme Court has extended the benefit of article of Art.21 even against a private person. In *Re: India woman says Gang-raped on orders of Village Court* published in *Business & Financial News* dated 23-1-2014 SC 2816. In *Bodhisattva Gautam v. Subhra Chakravarthy* (1996) 1 SCC 490, interim compensation of the victim of rape was granted by the court.

¹⁴ Available at lawcommissionofindia.nic.in/reports/report246.pdf (visited on Sept.11, 2017)

identified; and (iii) also in cases when the offence is proved” (Law Commission of India Report, 1996).

4(A).4.2 The Justice Malimath Committee on Reforms of Criminal Justice System (Government of India, 2003)¹⁵

The Justice V.S. Malimath Committee has made many recommendations of far reaching significance to improve the position of victims of crime in the Criminal Justice System, including the victim’s right to participate in cases and to adequate compensation. Some of the significant recommendations include:

- The victim, and if he is dead, his or her legal representative, shall have the right to be impleaded as a party in every criminal proceeding where the offence is punishable with seven years’ imprisonment or more;
- In select cases, with the permission of the court, an approved voluntary organization shall also have the right to implead in court proceedings;
- The victim has a right to be represented by an advocate and the same shall be provided
- at the cost of the State if the victim cannot afford a lawyer;
- The victim’s right to participate in criminal trial shall include the right: to produce evidence; to ask questions of the witnesses; to be informed of the status of investigation and to move the court to issue directions for further investigation; to be heard on issues relating to bail and withdrawal of prosecution; and to advance arguments after the submission of the prosecutor’s arguments
- The right to prefer an appeal against any adverse order of acquittal of the accused, convicting for a lesser offence, imposing inadequate sentence, or granting inadequate compensation;
- Legal services to victims may be extended to include psychiatric and medical help, interim compensation, and protection against secondary victimization;
- Victim compensation is a State obligation in all serious crimes. This is to be organized in separate legislation by Parliament. The draft bill on the

¹⁵ Available at <https://www.legal-tools.org/doc/70d1c6/pdf/> (visited on Sept.11, 2017)

subject submitted to Government in 1995 by the Indian Society of Victimology provides a tentative framework for consideration;

- The Victim Compensation Law will provide for the creation of a Victim Compensation Fund to be administered possibly by the Legal Services Authority. (Government of India, 2003).

4(A).4.3 The National Commission to Review the Working of the Constitution

The Commission to review the working of the Constitution (Government of India, 2002) has advocated a victim-orientation to criminal justice administration, with greater respect and consideration towards victims and their rights in the investigative and prosecution processes, provision for greater choices to victims in trial and disposition of the accused, and a scheme of reparation/compensation particularly for victims of violent crimes.¹⁶

4(A).5 Compensation to Victims Under Legislative Framework

The legislative framework which deals with the compensation to the victim of crime can be traced through two major legislations under criminal law the code of criminal procedure, 1973¹⁷ and probation of offenders Act, 1958¹⁸. Apart from these in India, there are five possible statutory provisions under which compensation may be awarded to victims of crime namely:

- The Fatal Accidents Act, 1855
- The Motor Vehicles Act, 1988
- The Criminal Procedure Code, 1973
- The Human Rights Act, 1993
- The Domestic Violence Act, 2005; and
- The Constitutional remedies for human rights“ violations

¹⁶Available at: shodhganga.inflibnet.ac.in/bitstream/10603/21992/12/12_chapter%206.pdf (visited on Sept.11, 2018)

¹⁷ Sec.357 of Cr.P.C. 1973, (Act No. of 1974), p.157.

¹⁸ Sec.5(1) “the court directing the release of an offender under sec.3 or sec.4, may, if it thinks fit, make at the same time a further order directing him to pay (a) such compensation as the court thinks reasonable for loss or injury caused to any person by the commission of the offence...”

In pursuance of recommendation of Law Commission of India in its 41st Report 1969, comprehensive provision for compensation to the victims of crime has been provided. This added new positive dimension to Indian philosophy of compensation. In addition to the conviction, under Section 357 of the Code of Criminal Procedure, 1973, the court may order the accused to pay some amount by way of compensation to the victim who has suffered by the action of accused. According to Sub-section (1) of Section 357, “ When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied¹⁹ –

- a) In defraying the expenses properly incurred in the prosecution;
- b) In the payment of any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;
- c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855, entitled to recover damages from the person sentenced for the loss resulting to them from such death;
- d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

According to Sub-section (3) of Section 357 when a court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

¹⁹Sec.357 of Cr.P.C. 1973, (Act No. of 1974), p.157

This provision under the Code of Criminal Procedure provides power to the trial court to award compensation to the victims of crime. However, this power is the discretion of the courts and mostly confined to only those cases where the court imposes a fine. Mostly it provides compensation as an alternative to fine. The power of court to award compensation is unlimited. However, in practice they are used in a limited way by the courts. A magistrate can order for higher compensation than the amount of fine he can impose. It can be seen that this legislative power has not been resorted to by the lower judiciary in spite of the direction of the apex court from time to time. Apex court has directed all courts in India to exercise their power under section 357 of the Code of Criminal Procedure liberally. In **Sarwan Singh v. State of Punjab**²⁰, the apex court enumerated the factors which courts should take into consideration while ordering award of compensation to the victim of crime. These factors include capacity of the accused to pay, nature of the offence and the nature of injury suffered by the victim. The court ruled that the quantum of compensation must be reasonable, depending upon the facts, circumstances and justness of victims claim. The accused must be given reasonable time for payment of compensation if required, it may be ordered to be paid in installments. Referring to sub-section 3 of S.357 of the Criminal Procedure Code, the court observed,

It is important provision but courts have seldom invoked it, perhaps due to ignorance of its object. It empowers the Court to award compensation to victims while passing judgment of conviction. In addition to conviction, the court may order the accused to pay some amount by way of compensation to victim who has suffered by action of accused. It may be noted that this power of court to award compensation is not ancillary to other sentences but it is in addition thereto. This power was intended to do something to reassure the victim that he or she is not forgotten in the criminal justice system. It is a measure of responding appropriately to crime as well as reconciling the victim with the offender. It is, to some extent, a constructive approach to crimes.²¹

²⁰ AIR 1988 SC 2131.

²¹ Hari Kishan and State of Haryana v. Sukhbir Singh, AIR 1988 SC 2127

It is to be remembered that this section entertains the question of compensation only at the time the court imposes a fine as a part of its judgment. A victim of crime requires financial assistance soon after the calamity and not after the pronouncement of the judgment which takes long years from appeal to high court and then to the Supreme Court. While awarding compensation to the victims of crime the trial courts generally refrain and shows reluctance to exercise their power is inductive of the fact that s.357 of the Code does not bear the seal of policy.²²

Therefore, this legislative provision is inappropriate to respond to the needs and requirements of a victim. This is perhaps because of the discretionary nature imposed on the judiciary by the legislature. It is a matter of charity and generosity than a substantive right as far as victim is concerned. Apart from this, there was no provision under legislation directing to compensate the victim by the accused. It is thus evident that legislative response to compensate victims of crime was limited. Apart from this, victims also invoke **S.482** of the Code of Criminal Procedure, 1973²³ seeking compensation from High Courts, the Supreme Court rejected this and in **Palaniappa Gounder v. State of Tamil Nadu**,²⁴ the court observed, if there is an express provision in a Statute governing a particular subject matter, there is no scope for invoking or exercising the inherent power of the court because the court ought to apply the provisions of the Statute. Hence the application made by the heirs of the deceased for compensation could not have been made under section 482 since 357 expressly confers powers on the court to pass an order for payment of compensation in the circumstances mentioned therein.

According to Section 358 (1) of Cr.P.C., whenever any person causes a police officer to arrest another person, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding one hundred rupees, to

²² Devinder Raheja, "Victim Compensation", 20 Kurukshetra Law Journal 1 (1999-2000)

²³ S.482 "Saving of inherent powers of High Court. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice".

²⁴ AIR 1977 SC 1323

be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit²⁵.

Further, according to sub-section (2) of section 358 of Cr.P.C. In such cases, if more persons than one are arrested, the magistrate may, in like manner, award to each of them such compensation, not exceeding one hundred rupees, as such Magistrate thinks fit²⁶.

Section 358 (3) of Cr.P.C. further states that all compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid²⁷.

Under Section 359 (1) of Cr.P.C. whenever any complaint of a non-cognizable offence is made to a Court, the court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution, and may further order that in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days and such costs may include any expenses incurred in respect of process fees, witnesses and pleader's fees which the court may consider reasonable²⁸.

4(A).5.1 Additional Compensation

S.357 B- Compensation to be in addition to fine under section 326 A or section 376 D of Indian Penal Code- The compensation payable by the State Government under section 357 A shall be in addition to the payment of fine to the victim under section 326 A or section 376 D of the Indian Penal Code.²⁹

²⁵ Ibid

²⁶ Ibid

²⁷ Ibid

²⁸ Ibid

²⁹ Criminal law amendment Act, 2013 (Act No.13 of 2013)

4(A).5.2 Treatment of Victims

S.357 C- All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326 A, 376, 376 A, 376 B, 376 C, 376 D or section 376 E of the Indian Penal Code, and shall immediately inform the police of such incident.”³⁰

Section 5 (1) of **The probation of offenders Act, 1958**³¹ state that the court directing the release of an offender under Section 3 or Section 4, may, if it thinks fit, make at the same time a further order directing him to pay –

- a) Such compensation as the court thinks reasonable for loss or injury caused to any person by the commission of the offence; and
- b) Such cost of the proceedings as the court thinks reasonable.

This provision empowers the trial court to order for compensation. The plain reading of this section shows that the power to award compensation vests only with the trial court.³² From the victim’s point of view the provisions are inadequate. The award of compensation and costs is at the direction of the Court. The dependent may be paid compensation from the fine amount which a Magistrate may impose on the accused under Section 357 of the Criminal Procedure Code. This makes it amply clear that such a power vests only with the court releasing an offender and is purely within its direction. Even the Appellate Court or High Court cannot interfere unless it is of the view that such power has been exercised capriciously and unreasonably. At times the trial courts do not invoke Section 357 in spite of the repeated directions issued by Supreme Court. Thus in **Harikrishna v. Sukhbir Singh**³³ directed all courts to exercise **S.357 of Code of Criminal Procedure** liberally and award adequate compensation. However, it also cautioned the courts to exercise it in a reasonable and just

³⁰Ibid

³¹Rudal Shah v. State of Bihar, AIR 1983 SC 1086.

³²S.5 (1) (a) of Probation of Offenders Act, 1958, (Act No. 20 of 1958)

³³(1988) 4 SCC 551

manner taking into consideration the nature of crime, veracity of the claim and the ability of the accused to pay.

Therefore, it can be seen that there are various constraints for the use of the legislative provisions available under criminal law. The legislative scheme of award and payment of compensation to the victims of crime does not mandate the court to compensate the victims. It does not even create any legal right to be compensated to the victims of crime. It entirely leaves it to the sweet will of a criminal court to compensate the victims. Apart from this, many a times there is a general reluctance on the part of criminal courts regarding the use of these provisions for compensation coupled with the indifference and even ignorance on the part of lawyers and clients and many opportunities are lost because of their default.

4(A).6 Compensation for the special categories of victims

There are significant developments in India in the form of new laws to promote the cause of victims and to mitigate the sufferings of potential victims of vulnerable sections of the population such as women, children and elders. The recent enactments passed by the Indian Parliament that have a significant bearing on preventing victimization and giving relief to victims include:

- **The Protection of Women from Domestic Violence Act, 2005**

A violation of the protection order by the respondent is an offence which can result in imprisonment for one year or a fine up to Rs.20,000/- or both. If the protection officer refuses to discharge his duties, he shall be punished with imprisonment for one year or with a fine of Rupees 20,000 or with both.

- **The Maintenance and Welfare of Parents and Senior Citizens Act, 2007**

Under this law, an obligation is created of the children or adult legal heirs to maintain their parents, or senior citizens above the age of 60 years who are unable to maintain themselves out of their own earnings, to enable them to lead a normal life.

- **Prevention of Child Abuse and Victim Protection**
- **The National Commission for Protection of Child Rights (NCPCR), 2007**

The National Commission for Protection of Child Rights has been taking up various issues brought forth in the area of child abuse. After inquiry, the National Commission can recommend initiation of proceedings for prosecution or any other action it may deem fit.

- **Prevention of Caste-based victimization and protection for victims: The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989**

The victims are entitled to receive monetary compensation ranging from Rs. 25,000 to 2,00,000 depending on the gravity of the offence.

In spite of this emerging trend the aspect of compensation remains subordinate to the punitive role of the State. *V.R. Krishna Iyer*, J made an observation that “it is a weakness of our jurisprudence that victims of crime and the distress of the dependents of the victim do not attract the attention of law. In fact, victim reparation is still the vanishing point of our criminal law this is the deficiency in the system, which must be rectified by the legislature.”³⁴

4(A).7 Evolution of compensatory Jurisprudence: Role of Judiciary

The basic object of the criminal justice system is to protect the society against crime and to punish the offender.³⁵ In order to maintain law and order in the society, the civilized state does not allow a victim to take the law in his own hands to punish the wrongdoer for the loss suffered.³⁶ Earlier, it was assumed by the criminal administration of justice that the claim of the victim gets satisfied by the conviction and the sentence of the offender. There is a change in this traditional concept of conviction of offender and the State is resorting to every

³⁴Rattan Singh v. State of Punjab, (1979) SCC 719

³⁵K.D. Gaur, Criminal Law: Cases and Materials, Lexis Nexis Butterworths Wadhwa, Nagpur (2014), p.33

³⁶Ibid.

possible measure for correction and rehabilitation of offender.³⁷ The irony is that the offender is lodged, fed, clothed, warmed and entertained in model prison at the expenses of the State which may also include the taxes that the victim pays to the treasury. It is rightly observed by Supreme Court that it is the weakness of our criminal jurisprudence that the victims of crime do not get proper attention.³⁸ In order to overcome these lacunae, apex court in India started giving importance to the interest of the victims of crime by awarding compensation and paved way for the development of compensatory jurisprudence. Earlier, the question of liability of State to compensate the victim was posed before the Supreme Court of India in **Khatri v. State of Bihar**³⁹ and in **Veena Sethi v. State of Bihar**.⁴⁰ In both these cases, the court refused to compensate the victims though in one of the cases, the court directed the State of Bihar to provide best treatment to the victim at the cost of the State. It was in the landmark verdict of the apex Court in **Rudal Shah**,⁴¹ that awarding compensation to the victims of crime originated which in turn resulted in the birth of **compensatory jurisprudence** in India. The court in this case observed that a person is entitled to compensation for the loss or injury caused by the offence, and it includes the wife, husband, parent and children of the deceased victim.⁴² The Court exercised its jurisdiction under Article 32.⁴³ This judgment assumes special significance as it added new dimension to judicial activism on the one hand and raised a vital question regarding the liability of the state to compensate for unlawful detention. Later the apex court in **Bhim Singh v. State of J & K**⁴⁴, observed that compensation for illegal arrest and detention is an area which unearthed new doctrines pertaining to, compensatory jurisprudence in India. In this case a Member of Jammu & Kashmir Assembly was arrested and detained with a malicious and mischievous intention by the police in connivance with the local A.D.M. while he was on his way to attend the assembly session. The State was directed to pay compensation of Rs. 50,000/- to the petitioner for

³⁷R.D. Dubey, "how effective is the Indian Criminal Justice System in Protecting her Citizen?: Some contemporary reflections", 1 Indian Human Rights Law Review (2010), p.37.

³⁸Rattan Singh v. State of Punjab, (1979) SCC 719

³⁹A.I.R. 1981 SC 928.

⁴⁰A.I.R. 1983 SC 339

⁴¹Rudal Shah v. State of Bihar, A.I.R. 1983 SC 1086.

⁴² Ibid.

⁴³Article 32 of the constitution of India.

⁴⁴AIR 1986 SC 498.

the violation of his legal and constitutional rights. Mostly compensation is awarded by the courts by interpreting article 21 of the constitution which deals with the life and liberty of the person.

In the state of **Maharashtra v. Christian Community Welfare Council of India**,⁴⁵ the apex court was called upon to decide whether the compensation paid by the State to the victim can be recovered by the guilty officer. In **R. Gandhi v. Union of India**,⁴⁶ the District Collector of Coimbatore had recommended that the state Government shall pay compensation to those families of Shikhs and others living in Coimbatore, who were victim of arson and rioting in the wake assassination of the former Prime Minister of India, Shri Rajeev Gandhi. In **D.K. Basu v. State of West Bengal**⁴⁷ Supreme Court made the following Observation:

The monetary and pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for the redressal of the established infringement of the fundamental right to life of a citizen by the public servants. The State is vicariously liable to which the defense of sovereign community is not available and the citizen must receive the amount of compensation from the state, which shall have the right to be indemnified from the wrongdoer.

4(A).7.1 Compensatory provision: A Constitutional Perspective

The Supreme Court of India by exercising its power under Article 32 evolved a new strategy to compensate victims of administrative wrongs. The Court has undertaken the task of protecting the right to life and personal liberty of all persons irrespective of the absence of any express constitutional provision and of judicial precedents⁴⁸. This constitutional interpretation was extended to award compensation to the victims of crime also. The Court also noted that the purpose of compensation is not just to restore the victim's life. It is also 'exemplary' in nature without obviating its discretion to individuate principles and

⁴⁵AIR 2004 SC 7

⁴⁶(2004) Cri.L.J.510 (Mad.)

⁴⁷AIR 1997 SC 610

⁴⁸ Upendra Baxi, The Supreme Court under Trial: Under and the Supreme Court, (1980) 1 SCC (J) 35.

recommendatory sums, some thresholds have to set⁴⁹. The compensatory relief was granted by the Supreme Court in Sebastian **M Hongaray**⁵⁰, **Bhim Singh**⁵¹ etc. In many of these cases, State was made liable to pay to the victims on the basis of public wrong. However, in State of **Maharashtra v. Ravicant S. Patil**⁵² Supreme Court absolved the inspector of Police from personal liability to pay compensation and directed the state to pay compensation. This is erroneous view and if the police commit an unlawful act in individual capacity, there is no reason the court decisions since there is no clear rules and regulation to decide cases on compensation to victim. Moreover, the compensation under writ proceeding will not be awarded in all cases⁵³. Mostly the ambit of **Compensatory jurisprudence** under Article 32 has been extended to the *underprivileged sections* as well as to individual cases involving grave injustice. The Supreme Court has awarded compensation in favour of the next kins of those who had lost their lives in the anti-Sikh riots. It has directed the Government to pay 3.50 lakhs to the dependents of each of the riot victims killed in the aftermath of the assassination of the then Prime Minister Mrs. Indira Gandhi. The court condemned the failure of the police to protect the lives of the citizens. Compensatory relief was given to the poor victims of illegal detention at the hands of executive and death caused due to police atrocities⁵⁴. Apart from this, the apex Court has awarded compensation to the victims of hazardous activity⁵⁵, custodial death⁵⁶ and rape victims⁵⁷.

4(A).7.2 The Judiciary and Remedies in India

The Indian judiciary, especially at the level of the Supreme Court and the High Courts, has for long been concerned with the concept and practice of justice – not only in the pursuit of justice for the privileged and affluent few but, more

⁴⁹ Rjeev Dhavan, “Strengthening Capabilities: Reflecting on the National Human Rights Commission’s (5th report), 42 JILI (2001) 469 at 488.

⁵⁰ Sebastian Hongaray v. Union of India, AIR 1984 SC 571.

⁵¹ AIR 1986 SC 498.

⁵² (1991) 2 SCC 373.

⁵³ In State of Maharashtra v. Dadaji Kachary, (1984) Cri.L.J. 1028 (BOM.) the Bombay High Court used its inherent power under S.482 of the Code of Criminal Procedure and awarded compensation for Violation of the constitutional freedom of the accused that was arrested and detained on “Untrustworthy and meaningless evidence”

⁵⁴ Saheli, a women Resource Centre V. Commissioner of police, AIR 1990 SC 513, D.K. Basu v. State of West Bengal AIR 1997 SC 610

⁵⁵ M.C. Mehta v. Union of India, AIR 1987 SC 965

⁵⁶ Nilabati Behera v. State of Orissa, AIR 1993 SC 1960

⁵⁷ Bodhisattwa Gautam v. Subhra Chakraborty, (1996) 1 SCC 490

importantly, in the pursuit of justice for all. The judiciary was called upon to play an important role in preventing and remedying abuses and misuses of power and in eliminating exploitation and injustice. It was necessary for this purpose to make procedural innovations that would enable it to meet the challenges posed by such new roles. In doing so the judiciary, being alive to its social responsibility and accountability to the people of the country, sought to liberate itself from the shackles of Western thought-ways.

4(A).7.3 Compensatory Relief in crime Against Women: Through Writ Petitions:

Supreme Court through its decisions has always ensured complete justice in its judgments and its decisions to allow the victims to approach High Court under Art.226 is a forward step to achieve the ends of equity and justice. *Injustice anywhere is a threat to justice everywhere*. Such decisions of the Supreme Court are really to be welcome because people of India do not have any law to deal with mass disaster. A special jurisdiction of the Supreme Court under Article 32 was created, which confers on it the status of *the custodian of the Constitutional Rights and the protector thereof*. These courts are alive to atrocities perpetuated against women, which is a welcome step. In fact, these trends may be regarded as distinct and different from the rest, for not only are the fundamental rights involved but also the directive principles as well as the fundamental duties.

4(A).7.3.1 Rape

The Compensation paid will help women start a fresh life, as in the Case of *Saheli v. Commissioner*.⁵⁸ The courts must resort to innovate in order to ensure that the real benefit of the compensation goes to woman concerned, as was done in *Padmini v. State of Tamil Nadu*.⁵⁹ The Government was directed to pay compensation into a fixed deposit scheme for the benefit of a victim of molestation. This special type of atrocity has also caused the courts to ponder over what should be the type of relief involved. The Guwahati High Court in *Re A*

⁵⁸AIR. 1990 SC 513

⁵⁹1993 Cri. LJ. 2964

Police Gang Rape⁶⁰ in trying not be patronizing, said it would award *ex gratia* payment. In **SPS Rathore v. State of Haryana**⁶¹, the Supreme Court accepted the contention that it could grant compensation only when there is a *prime facie* or established violation of a guaranteed fundamental right. When the fundamental fact itself is in dispute, the court will desist from ordering compensation. The exercise of the power under Article 32 or 226 for conducting an enquiry to determine compensation in glaring and clear cases of custodial rape or death or, illegal detention of the poor and helpless, is not feasible in such a case.

In **Chairman, Railway Board v. Chandrima Das**,⁶² the victim was awarded by Supreme Court with a Compensation of Rs.10 lakhs for being gang raped in Yatrini was of Railway. Since the right is available to non-citizens also, the reach of the right is very wide. It was a case of gang-rape of a Bangladeshi national by the employee of the Indian Railway in a room at Yatrini was at Howrah Railways Station. These employees managed the *Yatrini* was the Government contended that it could not be held liable under the law of torts as the offence was not committed during the course of official duty. However, the court didn't accept the argument and stated that the employees of Union of India, who are deputed to run the Railways and to manage the establishment, including the Railways Station and Yatrini was are essential components of the Government machinery which carries on the commercial activity. The Supreme Court has directed for payment of compensation to the victims of crime and the court has even ordered that the compensation amount has to be realized from the pocket of the offenders and erring public servants who are found guilty of such crime and excesses. The case of **Chandrima** is a living example where the Apex Court while awarding compensation to the Bangladeshi woman immunity pleaded by Railway officials who were charged of the offence.

The Case **Delhi Domestic Working Women's Forum v. Union of India and others** Writ Petition (CRL) No. 362/93, arose out of an incident in which six women, working as domestic servants in Delhi, were raped by eight army

⁶⁰1988 (2) MWN (Cri). 14

⁶¹J.T.2005 (5) S.C. 257

⁶²2000 Cr. LJ 1473 SC

personnel in a moving train between Ranchi and Delhi. The members of the petitioner forum, when prevented by the employers from meeting the victims, sought the court's directions for expeditious and impartial investigation of the offences.

The Supreme Court in **Delhi Domestic Working Women's Forum v. Union of India and others**⁶³, by highlighting of victim of rape and defects in the present criminal law systems outlined a set of board parameters to assist the victims of rape. Drawing inspiration from the Criminal Justice Act, 1991 of United Kingdom, dealing with an institutionalized payment of compensation to victims of crime including rape, stressed the need to set-up a Criminal Injuries Compensation Board (CICB) to compensate victims of rape. The apex Court directed the National commission for women to evolve a *scheme so as to wipe out the tears of unfortunate victims of rape*. The Supreme Court observed that having regard to the Directive Principles contained in the Article 38(1) of the Constitution, it was necessary to setup **Criminal Injuries Compensation Board** where in Compensation for victims shall be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction has taken place. The Board shall take into account the pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth, if this occurs as a result of rape. In the present situation, the third respondent will have to evolve such scheme as to wipe out the fears of such unfortunate victims....⁶⁴

Later, exercising its inherent power under Article 142 of the Constitution of India, the apex Court in **Bodhisattwa Gautam v. Subhra Chakraborty**⁶⁵ case *suo motu* gave effect to the right of a rape victim to claim compensation from the offender for violation of her constitutional right to live with human dignity. The court in this case noted:

Rape is a crime not only against the person of a women; it is a crime against the entire society. It destroys the entire psychology of women and pushes

⁶³2000 Cr. LJ 1473 SC

⁶⁴Scheme for Relief and Rehabilitation of victims of Rape, 2005, available at: <http://www.new.nic.in/schemeforrehabilitation.pdf>

⁶⁵Rudal Shah v. State of Bihar, AIR 1983 SC 1080

her into deep emotional crises. It is, therefore, a most dreaded crime. It is violative of the victim's most cherished right, namely right to life, which includes right to live with human dignity as contained in Art.21 of the constitution. The court directed the offender to pay the victim a sum of Rs. 1000 every month as interim compensation during the pendency of the criminal trial and also to pay arrears of compensation at the same rate from the date of the institution of the complaint by the victim. The court further ruled that compensation to the victim under such conditions will be justified even when the accused was not convicted. However it may be noted that this case was not a case of rape but of offences relating to marriage, causing miscarriage, cheating etc. it is therefore, difficult to appreciate the judicial propriety of awarding interim compensation with arrears in the absence of an appropriate compensation scheme to assist victims of rape⁶⁶.

The 154th Law Commission report recommended incorporating a New Section 357-A in Code of Criminal Procedure to provide for a comprehensive scheme of payment of compensation for all victims fairly and adequately by the courts. While compensation under Section 357-A Cr.P.C. is general in nature and covers all crimes, this scheme is meant specifically for rape victims.⁶⁷ The court in this case, has taken a note of the fact that rape victims besides the mental anguish, frequently incur substantial financial loss and in some cases are too traumatized to continue in employment.

Recently, subsequent to tragic Delhi rape case (Nirbhaya Case)⁶⁸ changes have been made to the laws relating to sexual offences under Criminal Law (Amendment) Act 2013. In this Act, for the first time in the history of Indian legal system **acid throwing** or acid attack is specifically defined as an offence. Perpetrators of acid attacks throw acid at the victims with the intention to disfigure, maim, torture, or kill. The long term consequences of these attacks include blindness, as well as permanent scarring of the face, and other difficulties. Now as per Section 326 A, a person who throws or administers acid on another person and

⁶⁶K.N. Chandrasekharan Pillai, "A Comment on Bodhisattwa Gautam v. Subhra Chakraborty", 20 Academy Law Review 205 (1996)

⁶⁷Rehabilitation of Sexually Assaulted Women, Press Information Bureau, Press Release, 03 March 2011, available at: <http://pib.nic.in/newsite/PrintRelease.apex?relid=70465>

⁶⁸State v. Ram Singh, FIR No: 413/2012 (Delhi)

causes a damage or deformity deserves an imprisonment which shall be of minimum 10 years and may also be extended to life imprisonment. If any fine is collected under Section 326A, then it is forwarded to the victim for the purpose of medical expenses. Under this amendment, the offence of rape is treated more critically. As per the new law, if the rape victim dies or is in a persistent vegetable state⁶⁹, the minimum punishment for the offender in such case shall be 20 years and it may be extended up to convict's natural life in jail or hanging till death. This time the medical treatment of a rape victim has also been taken into consideration.⁶⁹

4(A).7.3.2 Acid Attack

An examination of acid attack cases again underlines the urgent need for a scheme of compensation for the victims. In most of the cases no compensation has been awarded. In those in which compensation has been awarded the sum is minimal and is totally inadequate to meet even the medical expenses. Acid attack victims often have to, as stated earlier, undergo multiple surgeries costing Lakhs of Rupees. They are also in urgent need of rehabilitation as they often need financial help to exist. They may not be able to seek employment.

The Law Commission of India, submitted 226th Report on **The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Survivors of Crime 2008**⁷⁰, to the Hon'ble Supreme court of India for its consideration in the pending proceedings filed by one Laxmi in W.P. (Crl.) No. 129 of 2006. In this Report the National commission for Women has suggested a separate legislation to deal with the offence of acid attack and as part of the proposed legislation has suggested that the Central government should establish a National Acid Attack Victims Assistance Board which will provide assistance to the acid attack victims by way of ensuring medical treatment and other services such as psychological counseling. The board has also been given the task to recommend to the Government strategies to regulate and control inter-

⁶⁹Available at shodhganga.inflibnet.ac.in/bitstream/10603/28181/.../11_chapter%204.pdf (visited on April 5, 2017)

⁷⁰Law Commission of India, 226th Report on The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Survivors of Crime (July 2008) [hereinafter referred to as LCI 2008 report], <http://lawcommissionofindia.nic.in/reports/report226.pdf> (visited on July 20, 2014)

alia the production and sale of acids. It has been suggested that the board administers a fund to be called The National Acid Attack Victims Assistance Fund to which the Central and State government can give grants apart from others. It has been provided that the board can give interim financial relief upto Rs. 1 Lakh within a period of 30 days directly to the hospital. Apart from other issues the main problem with the suggestions of the N.C.W is that it is restricting the function of the board to only acid attack cases.⁷¹

The Commission has also examined the Canadian legislation for payment of compensation under the “Compensation for Victims of Crime Act”. This act applies to compensation claims arising from an injury or death resulting from certain offences. Thus, the act provides for compensation inter-alia to victims of offences like sexual assault, aggravated sexual assault, murder, manslaughter, sexual exploitation, assault, kidnapping etc. The act sets up a Criminal Injuries Compensation Board, which can pay compensation to the victim or a person who is responsible for maintenance of the victim or where death has occurred, the dependants or any of them of the victim or the person who was responsible for the victim’s maintenance. The compensation can be awarded under the following heads—

- a) Expenses actually and reasonably incurred or to be incurred as a result of the victims injury or death;
- b) Pecuniary loss or damages incurred by the victim as a result of total or partial disability affecting the victims capacity for work;
- c) Pecuniary loss or damages incurred by the dependents as a result of the victim’s death;
- d) Pain and suffering;
- e) Maintenance of a child born as a result of sexual assault;
- f) Other pecuniary loss or damages resulting from the victims injury and any expense that in the opinion of the board it is reasonable to incur.

⁷¹ Law Commission of India, 226th Report on The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Survivors of Crime: (Delhi: Law Commission of India, 2008), p.39.

Interim payments to the applicant preceding the award can also be made. The total compensation ordered to be paid cannot exceed \$100,000 in lump sum payments for one occurrence. The payment of the compensation has to be paid out of the consolidated fund.⁷²

After the leading case of ***Laxmi v UOI***,⁷³ the Supreme Court passed an order to put ban on selling of acid in shops. For preventing acid attacks, the Supreme Court has completely prohibited the counter sale of the chemical unless the seller maintains a recording of the address and other details of the buyer, and the quantum. Dealers can now only sell the chemical after the buyer showed a government issued photo identity card and after specifying the purpose of purchase. The seller should submit the details of sale to the local police within three days of the transaction. Acid should not be sold to any person under 18 and all stocks must be declared with the local sub-divisional magistrate (SDM) within 15 days. Undeclared stocks could be confiscated and the defaulter fined up to Rs.50,000. Acid attack is now a non-bailable and cognizable offence.

Laxmi of 22 years old, who was an acid attack survivor was waiting for a bus in Delhi's tony Khan Market in 2005, when two men poured acid on her after she refused to marry one of them, leaving her disfigured. Though the victim and her parents were poor they were fortunately helped by a benefactor who bore the medical expenses approximating to Rs. 2.5 Lakhs. However, even after 4 plastic surgeries the victim's physical appearance remains horrific and many more surgeries would be required to make her physical appearance a semblance of what it was. The victim can of course never look as she did before the attack. The Supreme Court directed all states to pay acid attack victim Rs. 3 lakh towards medical treatment and aftercare rehabilitation and Rs. 1 lakh within 15 days of an incident and the balance within two months thereafter.

In another case ***Parivartan Kendra v. Union of India and Ors.***,⁷⁴ in this case after working closely with acid attack survivors an NGO working for marginalized persons in Bihar filed this petition in the Supreme Court of India to

⁷²Ibid

⁷³Laxmi vs. Union of India (2014) 4 SCC 427

⁷⁴ WP (C) 867/2013.order dated 7/12/2015

ensure complete rehabilitative services and compensation for acid attack survivors. The outcome of the case is that Supreme Court issued notices to the state and union territories for information on victim compensation and CSAAAW became co-petitioner. S.C. stated that, the victim (Chanchal) should be compensated to a tune of at least Rs. 10 Lakhs. Suffice it to say that the compensation must not only be awarded in terms of the physical injury, we have also to take note of victim's inability to lead a full life and to enjoy those amenities which is being robbed of her as a result of the acid attack. Therefore, this Court deems it proper to award a compensation of Rs. 10 lakhs and accordingly, we direct the concerned Government to compensate the victim Chanchal to a tune of Rs. 10 Lakhs, and in light of the Judgment given in Laxmi's case we direct the concerned State Government of Bihar to compensate the main victim's sister, Sonam to a tune of Rs. 3 Lakhs.

In an another case *Ayushi Dubey and ors. v. State of U.P. and Ors.*,⁷⁵ this petition filed on behalf of Madhuri Prajapati an acid attack survivor. The team visited and filed the petition. It sought to constitute a team of doctors and experts to examine Madhuri.

- To reimburse the survivors of medical expenses.
- To fast track the criminal trial.
- To award compensation to her and her mother.

In this regard the High court passed some sweeping orders and asked to state to ensure all the prayers made in the petition.

4(A).7.3.3 Sexual Harassment

Sexual violence against women is rooted in a global culture of discrimination, which denies women equal rights with men, and which legitimizes and sexualizes the violent appropriation of women's bodies for individual gratification or for political ends. Social and cultural norms that deny women equal rights with men render women more vulnerable to sexual abuse. Sexual

⁷⁵ WP (C) 68901/2013.

violence does not exist in isolation. Rather, it is compounded by discrimination on the basis of race, ethnicity, sexual identity, social status, religion, class, caste and age all of which may place women at an increased risk of violence. Such discrimination involves the denial of basic social and economic rights and restricts women's access to justice.

Sexual violence against women is a human rights violation that cannot be justified by any political, social, religious, or cultural claim. Rape, which is one of the form of sexual violence, when used as a weapon of war, is systematically employed for a variety of purposes, including intimidation, humiliation, political terror, extracting information, rewarding soldiers, and *ethnic cleansing*. Women are often coerced into providing sex for *favours*.

Sexual harassment in the workplace is a growing concern for women. Employers abuse their authority to seek sexual favours from their female co-workers or subordinates, sometimes promising promotions or other forms of career advancement or simply creating an untenable and hostile work environment. Women who refuse to give in to such unwanted sexual advances often run the risk of anything from demotion to dismissal. Women in custody are often coerced into sexual assault, groping during body searches and shackling during child birth for *favours* such as extra food or personal hygiene products, or to avoid punishment.

In **Vishakha v. State of Rajasthan**⁷⁶, Vishakha, a non-governmental organization working for gender equality, had filed a writ petition seeking the upholding of the Fundamental rights of working women under Article 21 of the Constitution. The reason for the petition was the gang rape of a Saathin (a social worker involved in women's development programmes) of Rajasthan in 1992. The assault was an act of revenge as Saathin had intervened to prevent a child marriage.

Supreme Court provided a landmark judgment on the ***area of sexual harassment against women***. As in this particular aspect, ***there is no law or enactment by the legislature, the judiciary here applied its activist power*** and

⁷⁶ AIR (1997) 6 SCC 241

provides some guidelines. After providing the guidelines the court said: accordingly the guidelines and norms would be strictly observed in all work places for the preservation and enforcement of the rights of gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field.

The guidelines the SC issued in 1997, which came to be known as the Vishakha Guidelines, were to be ‘strictly observed in all workplaces’ and were binding and enforceable in law. The National Commission for Women submitted drafts of a Code of Conduct for the Workplace in 2000, 2003, 2004, 2006 and 2010. The Protection of Women against Sexual Harassment at Workplace Bill was introduced by the Women and Child Development minister, Krishna Tirath, in 2007. The amended Bill was passed by the Lok Sabha in September 2012, the Rajya Sabha in February 2013, signed by the President in April 2013 and came into force on December 9, 2013 as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act. In December 2013, Vishakha was superseded by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, which kept the essence of the Guidelines and added more provisions.⁷⁷

4(A).7.3.4 Sexual Harassment: Molestation

The accused – respondent on 12th August, 1988 at Taj Hotel, Delhi, tried to molest a women employee – a clerk cum typist (Secretary to chairman of a Delhi based Apparel Export Promotion Council), reported in ***Apparel Export Promotion Council v. A.K. Chopra***⁷⁸. The respondent persuaded the typist to accompany him while taking dictation from the chairman, so that her typing was not found fault with. While the typist was waiting in the room, the respondent taking advantage of the isolated place tried to sit too close to her and touch her despite her objections; and tried to molest her physically in the lift while coming to the basement, but she saved herself by pressing emergency button, which made the door lift open.

⁷⁷<http://www.thehindu.com/news/cities/mumbai/sexual-harassment-at-work-the-limits-of-the-law/article17763605.ece> visited on 23/3/2018

⁷⁸AIR 1999 SC 625

In appeal of the case, the Supreme Court held that “in a case involving charge of sexual harassment or attempt to sexually molest, the courts are required to examine the broader probabilities of case and not swayed away by insignificant discrepancies or narrow technicalities or Dictionary meaning of the expression *molestation* or **physical assault**.” The court also said that “the sexual harassment of a female employee at the place of work is incompatible with the dignity and honour of a female and to be eliminated and that there can be no compromise with such violation”.

4(A).7.4 Sensitization of the Judicial Machinery

The latest judicial trend reveals that the Higher Courts are quite enthusiastic in using law as a tool of social revolution. In a recent judgment of *State of M.P. v. Babulal*⁷⁹, C.K. Thakkar J. opined that a *socially sensitized judge is better armour in cases of crime against women than long clauses of penal provisions, containing complex exceptions and complicated provisions*. Such a judgment stresses about the need of gender sensitive judiciary to deal with crime against women. With the rise of crime against women judicial behaviour displayed not only a greater sense of responsibility but also more sensitiveness.

4(A).7.5 Gender Sensitivity of Judges towards Victims of Physical violence

A male – dominated judiciary lacks the sensitivity required to handle rape cases, as is evident from the way many rape trials have been conducted here, with the onus on the victim to prove that she was indeed violated beyond doubt. Cross-questioning of a rape victim seeks more to indict the victim than establish the crime, and in most cases, the aggressor walks free, which is why many sex-offenders are not first-timers. In the case of **Krishnappa v. State of Karnataka**⁸⁰, the Supreme Court acknowledged the necessity of sensitizing a judge to such inequality and discrimination, which is suffered by a woman. If the judge is a woman, in the matter of judicial decision making process, may understand the problem of a woman better being empathetic to her. This means a woman judge mentally puts herself in the shoes of a woman and then only it will be possible for

⁷⁹2000 1 SCC 234, Para 29

⁸⁰AIR 2000 SC 1470

her as sensitized judge to understand the problem of a woman with which she is facing including the problem of courtroom prejudice. Women judges would be free of such prejudices and would ensure fair trial and conviction and create a climate of deterrence.

In the case of **State of Punjab v. Gurmit Singh and Others**⁸¹, how the evidence of a rape victim has to be considered by the court has been described by the Supreme Court. In this case the Supreme Court being sensitized to the problems of sexual assault of women, held *inter alia*, that the courts must, while evaluating evidence, remain alive to the fact that in a case of rape, no self-respecting woman would come forward to court just to make a humiliating statement against her honour such as is involved in the commission of rape on her. Criticizing the High Court where the sentence in a rape case of 12 years' girl was reduced, the Supreme Court held that High Court exhibited lack of gender sensitivity towards the victim of rape and to the society by reducing substantive sentence in the established facts and circumstances of the case and the courts have an obligation while awarding punishment to impose an appropriate punishment so as to respond to the society's cry for justice against such criminals. In the case of victims of sexual abuse who are minors, it is worth referring to the recent guidelines laid down by the Supreme Court of India in **Sakshi v. Union of India & ors**⁸², which a sensitized judge should follow:

- I. Permitting use of a videotaped interview of the child's statement by the judge (in the presence of a child support person);
- II. Allow a child to testify via closed circuit television or behind the screen to obtain full and candid account of the acts complained of;
- III. The cross-examination of a minor should only be carried out by the judge based on written questions submitted by the defence upon perusal of the testimony of the minor; and
- IV. Whenever, a child victim is required to give testimony, sufficient breaks should be given as and when required for by the child.

⁸¹AIR 1996 SC 1393

⁸² AIR 2004 SC 3566

In **Dinesh v. State of Rajasthan**⁸³, the Apex Court went further holding that the name of the victim shall not be published even in the publication of the judgments of the courts.

It may be interpreted here that a sensitized judge in case of an adult rape victim, can take similar suitable steps also. The pity is that women are not adequately represented as judges in the country's higher judiciary.

4(A).8 Victims' Rehabilitation in International Legal systems

The UN General Assembly "Declaration of Basic Principles of Justice for victims of Crime and Abuse of Power (November 29,1985)" an important recognition of the need to set norms and minimum standards in international law for the protection of victims of crime. The UN Declaration of 1985 recognized four major components of the rights of victims of crime:

- i. Access to justice and fair treatment (clause 4 and 5 of UN Declaration);
- ii. Restitution (clause 8 and 11 of UN Declaration);
- iii. Compensation (clause 2 of UN Declaration); and
- iv. Assistance (clause 14 (Part B) of UN Declaration).

This UN Declaration of 1985 is the *Magna Carta* of the rights of victims globally. **The European convention on compensation of victims of violent crime, 1983** provides for many of the rights recognized in the UN Declaration. The statutes on victims of Crime in certain other countries include **the Criminal Injuries Compensation Act, 1995** in the United Kingdom, **the victims of Crime Assistance Act, 1996** of Victoria in Australia, and **the Victims and Witnesses Protection Act, 1982** of the USA.

The U.K **Criminal Injuries Compensation Act 1995**⁸⁴ makes the government responsible for setting up a scheme and states as under-

⁸³ AIR 2006 SC 1267

⁸⁴Available at:http://www.opsi.gov.uk/acts/acts1995/ukpga_19950053_en_1#l1g1(visted on July 5, 2018)

1. “The Secretary of State shall make arrangements for the payment of compensation to, or in respect of, persons who have sustained one or more criminal injuries.
2. Any such arrangements shall include the making of a scheme providing, in particular, for—
 - a) the circumstances in which awards may be made; and
 - b) the categories of person to whom awards may be made.
 - c) the scheme shall be known as the Criminal Injuries Compensation Scheme.”⁸⁵

It states that a standard amount of compensation will be determined by reference of the nature of the injury and additional amounts with respect to special expenses and fatal injuries can be provided for. The act states that the government should prepare a table showing the amount which should be paid in different cases or for different injuries. A claim officer to award the claim and adjudicators to hear an appeal have also been specified under the act.

It has been pointed out that Financial Compensation for the victim can be very generous in the UK. The UK Criminal Injuries Compensation Board provided a victim GBP £86,250 (approximately US \$140,000). The Assessment of general damages read as under:-

“The woman was aged 44 at the date of the assault and 50 when she was injured in an acid attack. 31 She had 8% thickness burns to her face, right arm, dorsum of both hands and the left upper chest plus damage to both eyes. She had to have several skin grafts 10 months, two years eight months and two years 11 months after the assault. She was left with extensive scarring to her whole face, loss of hair above the left forehead, severe scarring to the right arm and left forearm and scarring to both hands. All scarring was permanent. Her left earlobe was destroyed, she suffered a perforated left eardrum, likely to have been caused by chemical burns and suffered permanent hearing loss, tinnitus and a persistent and foul smelling variable discharge from the left ear. She also experienced pain in the throat, on the left side of the face and ear, particularly when in the cold,

⁸⁵ Section 1 of Criminal Injuries Compensation Act 1995

soreness in her eyes with extensive watering on a permanent basis. There was some visual impairment. She also suffered from headaches, dizziness and a loss of balance. Prior to the attack she had worked full time in a supermarket that she ran with her husband and was outgoing and sociable. Following the attack, she developed agoraphobic tendencies and suffered from sleep disturbance, anxiety, frequent flashbacks, excessive sensitivity to heat and became socially withdrawn and more distant in her relationships. There was a diagnosis of severe post-traumatic stress disorder and a moderately severe depressive reaction. The prognosis for the psychiatric injuries was poor although there had been some small improvement by the hearing. Due to the severity of her injuries, S was unable to work again.”⁸⁶

The setting up of a *Witness and Victim Protection Unit* under the control of an independent and accountable agency, by suitably modifying the available models, becomes imperative. South Africa has enacted a **Witness Protection Act, 1998 (WPA)** which provides, inter alia, for the establishment of a Central Office for Witness Protection, which will function under the Control of the Minister of Justice and Constitutional Department. This office will be responsible for the protection of witnesses in terms of the WPA⁸⁷.

Recent Developments in India take notice of victims and reforms of Criminal Justice System. Malimath Committee (March 2003) – Committee on Reforms of Criminal Justice System (Chaired by Justice V.S. Malimath, constituted by Government of India) in its lamentation held that *Victims feel ignored and are crying for attention and Justice*. India’s National Human Rights Commission encourages the right to rehabilitation of *torture victims*. This commission has recommended fining the police authorities and the responsible police station to provide the funds needed for rehabilitation and other compensation for injuries, in addition to relief through local and State Governments. But this system results in long delays in collecting compensation.

⁸⁶ Available at lawcommissionofindia.nic.in/reports246.pdf (visited on 11/09/17)

⁸⁷ S. Muralidhar, *Rights of Victims in the Indian Criminal Justice System*, Geneva, International Environmental Law Research Centre, 2004, pp. 4-5.

2013 Report of the Committee on Amendment to Criminal Law (J.S. Verma) The Committee submitted its report on January 23, 2013. It made recommendations on laws related to Acid Attack rape, sexual harassment, trafficking, child sexual abuse, medical examination of victims, police, electoral and educational reforms. The Committee submitted its report on January 23, 2013. This report recommends that center and state create corpus to compensate women victims.⁸⁸

"Nevertheless, the problem in India is not that there are not enough laws. There are a number of statutory laws and it is just as well, because laws are the basis, on which comprehensive victim assistance may be built. Our problems in India are three-fold:

- I. To create awareness among potential victims to recognize victimization, with a view of preventing it and seeking proper assistance and remedy when it occurs.
- II. To sensitise the courts, the police, the medical and welfare services, including non- official agencies, about the needs of victims and an approach towards satisfying them, and
- III. To organize victim assistance services on a wider front and more comprehensively than currently exists."

The case for compensation to victim of crime rests primarily on two grounds. One is that the criminal who inflicted injury to the person must compensate for the loss and the second one is that the State which failed in its duty to protect the life and dignity of the victim should compensate the victim for the same. But under criminal justice system, the State takes the entire payment by way of fine and leaves the victim at their own plight. It is the responsibility of the State to protect its citizens failing which it shall compensate the victims of crime to prevent individual retaliatory behaviour. There is on the other hand drives its power to award compensation from the numerous laws in order to assist and rehabilitate the victims. It is always a matter of discretion of the courts and victim of a crime cannot claim it as matter of right. Though there is Section 357 under

⁸⁸Available at www.slideshare.net/.../burning-injustice-a-book-on-acid-attack-by-hrln (visited on march 2, 2017)

Cr.P.C., the trial courts in our country seldom invoke this provision. The whole legislative paradigm coupled with lack of judicial determination has exposed numerous flaws of the present legal system about awarding of the compensation to the victims. Generally, when the state makes ex-gratia payment to the innocent victims of violence in major accidents, which is not only ad hoc and discretionary but also inadequate⁸⁹. Moreover, undue delay in making an award of compensation to the victims of crime and violence will defeat the very purpose of providing the support and relief to them. Indian criminal law system does not provide for institutionalized payment of compensation to the victim of a crime for any loss or injury, whether physical, mental or psychological, caused to them by the offender.

In pursuant to the provision under Code of Criminal Procedure for preparation of a scheme for providing funds for the purpose of compensation to the victim or their dependents who have suffered loss or injury as a result of crime and who require rehabilitation, only 17 States and 7 Union Territories have prepared “Victim Compensation Scheme”. The compensation provided in these schemes is not adequate and uniform. This was highlighted by the apex court in its decision on compensation to the victim of acid attacks.⁹⁰ In **State of Rajasthan v. Sanyam Lodha**,⁹¹ the apex court held that failure to grant uniform ex-gratia relief is not arbitrary or unconstitutional. It was held that the quantum may depend on facts of each case.

Therefore there is a need for the effective implementation of the scheme of compensation as suggested by the court in **Delhi Domestic Working Women’s Forum**⁹² and the same needs to be materialized. As suggested in this case central government should formulate a compensatory scheme for victims of crime on the lines of British Criminal Injuries compensation scheme to enable victims to seek compensation from the offender and the State. The executive should response to these judicial directives to render justice to the victims to seek compensation from the offender and the State. The executive should response to these judicial

⁸⁹ K.I. Vibhute, “Compensating Victims of Crime in India: An Appraisal, 32 JILI 68 (1990).

⁹⁰ *Laxmi v Union of India*, (2014) 4 SCC427.

⁹¹ (2011) 13 SCC 262.

⁹² *Gudalure M J Cherian v Union of India* (1995) Supp. 3 SCC 387. *Railway Board V. Chandrima Das*, (2000) 2 SCC 465

directives to render justice to the victims. The court which does not award compensation to the victims should state the reasons for not providing compensation to the victims. The apex court observed that the power to award compensation to the victim was intended to reassure them that they are not forgotten in the criminal justice system.⁹³ Therefore if the application of mind to the question of award of compensation to the victim of crime in every case is not considered mandatory under Section 357 of Code of Criminal Procedure, then it will defeat the very object of the provision under the Code. It is true that no compensation can be adequate or will bring respite for any victim of crime but monetary compensation will at least provide some solace to them. The principles of compensation to the victims of crime need to be reviewed and expanded to cover all cases of crime. The judicial discretion should not become a hindrance to award compensation to the victims and it is suggested that the provision should be mandatorily used with reasonableness and fairness by the courts relying on apex court directions. Also the State should try to recover it from the accused or any alternative measures need to be implemented so that the taxpayers money are not used for the same.

The existing procedure for getting compensation is time – consuming and creates many problems for the victim as he has to first go through a criminal trial to establish the culpability of the offender and then go through a civil trial for getting proper compensation under Section 357 (2) Cr.PC is almost illusory. To avoid this, in victimologically – oriented jurisprudence, both the trials, i.e., the trial for finding culpability of the offender and for award of compensation to the victim should be synthesized into one trial so that both the objectives can be achieved within the same period.

Now the main aim of criminology is certainly not confined to the sphere of punishing the offenders, but it is more 'victims' oriented. Till 19th century, criminal law was paying more attention to the individual and less to the group. Now this trend is somehow applied over the victim-oriented studies. Due to the advent of not only white-collar crimes and corporate crimes but also due to the

⁹³ Ankush Shivaji Gaikwad v. State of Maharashtra, (2013) 6 SCC 770.

absolution of state immunity, the concept of Victimology got accelerated.⁹⁴ The foregoing discussion leads to conclude that legal framework governing the payment of compensation to victims of crime in India reveals that law in India was fragmentary and inadequate to compensate victims of crime. But on the recommendations⁹⁵ of Law Commission of India, recently the Code has been amended by the Criminal Amendment Act, 2008.⁹⁶ It further strengthens the scope of law relating to compensation. Through this amendment s.357A⁹⁷ has been introduced in the Code which is the need of the hour. Because the law is to be victim friendly so that the individuals also experience the real justice existing in the modern complex Indian society. Real and natural justice guarantee the rehabilitation and ultimate removal of hardships of aggrieved, which to an extent, can be achieved through compensation. And by introducing the victim compensation scheme⁹⁸ it gives the platform to victims to get compensation from the accused if he is found otherwise in case of unidentified or untraced accused the District/State Legal Authorities will pay the adequate compensation to the victim for his/her sufferings after the inquiry which should be completed within two months.⁹⁹ In spite of that s.357A has also certain draw backs; it is not exhaustive in nature because the co-ordination between the centre and state is a pre-requisite for providing funds for the purpose of compensation scheme. Though there is lack of coordination due to the opposition of political parties at

⁹⁴Dr. Sunita Arya *Compensatory Judicial Jurisprudence Through Constitutional and Legal Provisions*, *Altius Shodh Journal of Management and Commerce*, (2011).

⁹⁵*42nd Report*, Law Commission of India, *Forty first Report* (the Code of Criminal Procedure, 1898) 356, admitted that our Courts are not particularly liberal in utilizing these provisions; they do not exercise their statutory powers, under this section as freely and liberally as could be desired. Supreme Court also carried the same impression and appealed to all Courts in India to exercise their powers liberally to meet the end of Justice in a better way. It may be noted that the power of Courts to award compensation is not ancillary to other sentences but is in addition thereto. This power was intended to do something to re-assure the victim that he is not forgotten in the criminal justice system. It is, to some extent, a constructive approach to crimes. In *152nd Report* (152nd report of Law Commission of India (Govt. of India) on Custodial Crime (1994)) the Commission has recommended the introduction of s. 357-A of Cr.P.C. prescribing that compensation be awarded at the time of sentencing to the victims of the crime Rs.25,000/- in the case of bodily injury not resulting in death, Rs. One Lac in the case of death. In *154th Report* (154th report of Law Commission of India (Govt. of India) on Cr.P.C (1996)) it went one more stage ahead and recommended for s. 357-A of Cr.P.C. to provide for a comprehensive scheme of payment of compensation for all victims fairly and adequately by the courts.

⁹⁶Received the assent of the President on 7th January, 2009, Act Published in the *Gazette of India* 9-1-2009, Part II Schedule I *Extraordinary* p. I (No. 6)

⁹⁷ S, 357A, Criminal Law Amendment Act 2008 (Act No.2, 2009)

⁹⁸ *Ibid*

⁹⁹ *Id*, cl (5) of S. 357A

the centre and state level or for any other person and because of this the benevolent object of these provisions may be defeated. Clause (2) of s.357A provides that the recommendation for the compensation is firstly made by the Court (who decides the matter) and thereafter the District/State Legal Authorities shall decide the quantum of compensation which may generate the delay and deny the justice to victim of crime. Ultimately the sufferer again is the victim of crime.

Thus it is completely clear that even if several amendments have been introduced in Cr.P.C yet there is dearth of proper comprehensive laws related to compensation that can bring actual relief to the victims of crime. It validates our forth hypotheses that states existing legal framework providing for compensation by offender to his victim for loss suffered or injury caused by commission of offence is inadequate. Apart from it, there are number of special laws which have proclaimed to award compensation for victims but the present study reveals that these statutes have been made for different purposes and there is no clear cut direction available from legislature as well as judiciary. These laws are less helping and more confusing to the victim. These Acts are providing compensation to their own victims of crime only. Thus insertion of ss. 357 A, 357 B, 357 C is only one step in the direction of recognizing a range of victim's rights in criminal justice. The criminal justice system has for too long been preoccupied with safeguards and protections of the accused. The case for a viable, social justice-oriented and effective scheme for compensating victims is very widely felt because the victim of crime being a component of criminal justice administration is entitled to social justice contained in Constitution. On the other hand, it is vivid that the power of Supreme Court under Art. 32 to deviate from the traditional jargon and to formulate new horizons in granting relief for violation of fundamental rights particularly the right to personal liberty.

Chapter – 4(B)

EVALUATION AND DEVELOPMENT OF COMPENSATION FOR ACID ATTACK SURVIVORS

One of the most agonizing impacts of an acid attack is the economic ramifications on the survivor. Economic impacts include loss of financial support from the survivor's family and community, inability to work or attend school during a prolonged course of treatment, sharp reduction in future earning potential, extreme difficulty in finding employment due to negative responses to the survivor's disfigurement, and the costs of social stigma.¹ As a result, survivors "become dependent on others for food and money."² For survivors without a consistent source of such support, the result is a life of destitution and a struggle to survive.

In order to secure adequate relief for survivors, it is imperative to understand the sources and scope of the Centre, State, and Union Territory Governments' legal obligations to rehabilitate and compensate survivors. It would be pertinent, thus, to provide a chronological list of key events of the important legal developments concerning acid attack survivor compensation since 2006 when Advocate Aparna Bhat filed the Public Interest Litigation *Laxmi vs. Union of India & Ors.*, in the Supreme Court, praying for regulation of the sale of acid.

¹Law Commission of India, 226th Report on The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Survivors of Crime (July 2008) (hereinafter referred to as LCI 2008 report), P. 8.

²*Ibid.*,13

LEGAL DEVELOPMENTS CONCERNING ACID ATTACK SURVIVOR COMPENSATION	
2006.05	Laxmi vs. Union of India & Ors., WP (C) 129/2006 is filed in the Supreme Court as a PIL.
2008	The National Commission for Women (NCW) releases its draft Scheme for Relief and Rehabilitation of Offences (by Acids) on Women. The NCW Scheme proposes a federalized system of compensation and rehabilitation committees, with committees at the district level hearing survivors' applications for compensation (up to Rs. 30 lakhs) and providing affirmative assistance to survivors in seeking rehabilitation services. The NCW Scheme also proposes specific amendments to the Indian Penal Code and Code of Criminal Procedure for punishing perpetrators and compensating victims.
2008.07	The Law Commission of India (LCI) submits a report to the Court entitled "The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a Law for Compensation for Victims of Crime." The report, inter alia, criticizes the Indian courts' past treatment of acid violence cases; provides an expansive view of the survivors' physical, psychological, social and economic injuries that are eligible for compensation; recommends specific legislative reforms, including providing compensation for survivors. Echoing the NCW, the LCI recommends specific amendments to the Indian Penal Code and Code of Criminal Procedure.
2009.12.31	The Code of Criminal Procedure (Amendment) Act of 2008 comes into effect. The Act adopts aspects of the recommendations by the NCW and LCI by adding section 357A to the Code of Criminal Procedure, which requires the States to prepare victim compensation schemes for survivors of crimes "who require rehabilitation."

2011.02.11	In the case of Laxmi the Court rebukes the State and UT Governments for failing to prepare any survivor compensation schemes under Section 357A and directs the Home Ministry in coordination with the States and UTs, “to prepare schemes as provided in Section 357A for the purpose of providing compensation to victims of crimes, in particular acid attack victims.”
2013.04.03	The Criminal Law (Amendment) Act of 2013 comes into effect, thereby overhauling the Indian Penal Code and Code of Criminal Procedure to address issues of gender-based violence, including provisions imposing more severe criminal sanctions for perpetrators of acid violence and a provision requiring that public and private hospitals provide survivors with free "first-aid or medical treatment"
2013.04.16	In the case of Laxmi the Court notes, with palpable frustration, that tragic incidents of acid attacks continue to happen" in the face of Government inaction and "easy availability of acid in retail across the counter". The Court directs the Governments to turn their attention to three key areas: (1) the need for laws regulating the sale and storage of acid, (2) treatment and rehabilitation of survivors, and (3) the preparation of victim compensation schemes under Section 357A.
2013.07.18	In the case of Laxmi the Court declares virtually all the States' 357A compensation schemes, which provide compensation of between Rs. 50, 000 and Rs. 2 lakhs, to be “inadequate” and directs that 357A schemes “must be enhanced to at least Rs. 3 lakhs.” The Laxmi Court also states, “of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard.”

2013.08.21	After Chanchal Paswan is attacked in Bihar, HRLN files Parivartan Kendra vs. Union of India & Ors. , ³ in the Supreme Court as a PIL praying for better compensation, medical treatment, and rehabilitation of acid attack survivors.
2013.12.03	In the case of Laxmi the Court clarifies that the Rs. 3 lakhs minimum compensation established in its Order of 18 July 2013 was an “interim arrangement” pending the submission of new Section 357A compensation schemes by the States and UTs. The Court discusses an affidavit in which the State of Haryana reveals that its Section 357A scheme will cover 100% of survivors' long-term treatment costs, including plastic surgery and psychological care. The Court directs the other States and UTs to submit affidavits stating their views on the Haryana Scheme prior to the next scheduled hearing on 15 April 2014.
2014.04.22	In the case of Laxmi the Court directs the defaulting states to ensure "that compliance of the order dated 3.12.2013 is positively made within ten weeks from today and affidavit of compliance is filed in this Court on or before 15.7.2014 failing which the Court may have to initiate contempt proceedings against the defaulting states.”

4(B).1 Landmark Government Reports on Acid Attack

4(B).1.1 National Commission for Women Report, 2008

In its Annual Report of 2008-09, the NCW announced that it had drafted a Scheme for Relief and Rehabilitation of Offences (by Acids) on Women (“NCW Scheme”).⁴ The NCW Scheme aims to provide survivors with “medical treatment services” and "social and psychological support" calibrated to the individual needs of each survivor. It observed: “Acid attacks permanently disfigure, debilitate and eventually destroy the victim, both physically and psychologically.” It

³WP (C) 867, 2013 decided on Dec. 2015

⁴NCW, Annual Report 2008-09, Annexure IV on 29 January 2009, the NCW issued a revised version of the Scheme, which is the version analyzed here.

acknowledged that the victim needs both "short term and long term medical facilities in the form of specialized plastic surgery."

The NCW Scheme proposes to establish a federalized system of "Criminal Injuries Compensation Boards" at the national, state, and district levels that would only deal with cases of acid attack. The six-member National Board would, inter alia, administer a pool of compensation funds (a proposed Rs. 33 crore to be funded by taxes on acid manufacturers, fines levied by criminal courts, and contributions from the Centre Government), issue rehabilitation scheme guidelines in consultation with the Centre and State governments, and monitor the activities of State Boards. The seven-member State Boards would hear appeals from the District Boards, and otherwise oversee the District Boards' activities. The five-member District Boards would have "exclusive jurisdiction" to hear applications for compensation and authority to issue up to Rs. 25 lakhs to survivors (inclusive of interim compensation up to Rs. 5 lakhs to pay hospitals for a survivor's early treatment). Under the Scheme, Boards at all three levels of government would have the authority to issue directions to the appropriate authorities under the Scheme for ensuring proper medical, psychological and legal assistance to the victim," and compensation and rehabilitation services are to be provided irrespective of the outcome of any related criminal legal proceedings.

The final body established by the NCW Scheme is the District Monitoring Committee ("DMC"), which would perform most of the day-to-day work of providing survivors with individualized rehabilitation and assistance, under the oversight of the District Board. With regard to rehabilitation, the DMC would arrange for "psychological and medical aid and counseling," arrange for shelter as appropriate, provide "other support services," and generally "facilitate the victims' rehabilitation." For "young victims," the DMC would oversee their education and occupational training, and help them to secure employment. The DMC would also participate in legal proceedings, including arranging for "legal aid to the victim in filing the FIR till the conclusion of the trial"; monitoring and expediting investigations; and assisting "in opposing bails, filing appeals and making application for protection of the victim." Finally, the DMC would be charged with maintaining records of acid attacks and educating the public, law enforcement officers, and other stakeholders about acid violence.

While the compensation portion of the NCW Scheme did not get much traction in the legislature, the second portion, which proposes amending the Indian Penal Code (IPC) and Code of Criminal Procedure (Cr.P.C.), closely resembles recommendations made by the Law Commission of India in a 2008 Report,⁵ and the recommendations in the Justice Verma Committee report of 2013, which in turn spurred actual amendments to the Cr.P.C. and IPC in 2008 (amendments to Cr.P.C. Section 357A, as discussed in the following section) and 2013 (amendments to IPC section 326A and 326B).⁶

4(B).1.2 Law Commission of India Report, 2008

In July 2008, the LCI submitted a report to the Laxmi Court entitled *The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Victims of Crime* (“2008 LCI Report”). Although not required to submit a report, the LCI “decided to take up the matter suo moto in view of the gravity of the offence of acid attacks.”⁷ In many ways, the report is a boon to advocates seeking compensation for survivors. It is divided into six chapters, including the following: a comprehensive overview of physical harms of acid attacks and acknowledgement that attacks cause significant psychological, social, and economic harms (Chapter II); a critical review of approximately 15 acid violence court cases in India between 1969 and 2007 (Chapter III); a discussion about past Supreme Court decisions and other countries' laws (focusing on Canada and the UK) that require compensation for survivors of certain crimes (Chapter V); and conclusions and recommendations (Chapter VI). For the purpose of this chapter, we shall be discussing only chapter III and VI in detail.

In Chapter III, the LCI reviews past acid attack cases in Indian courts from 1969-2007. The chapter is noteworthy for its critical tone. For example, the report refers to one judge's sentence of a convicted attacker as a “mockery” and frequently criticizes the fines levied by judges as “insignificant” and “meager.”⁸ Even in discussing a “landmark case” where the judge levied a fine of Rs. 5 lakhs

⁵Ibid

⁶Code of Criminal Procedure (Amendment) Act of 2008 (amending the Cr.P.C. at Section 357 A to address compensation for survivors); Criminal Law (Amendment) Act of 2013 (amending the IPC at Section 326 to criminalize acid attacks as a separate offence).

⁷LCI 2008 Report, *supra* note 398, at 3.

⁸Ibid., 16, 17, 20.

“to meet the [survivors'] medical expenses including that of plastic surgeries,” the report still criticizes the decision because “no compensation was awarded for the after effects of the attack such as loss of income etc.”⁹ The LCI also noted that the “victims suffer a great deal due to a slow judicial process, inadequate compensation and obviously from the after effect of the attack itself.”¹⁰ After reviewing all 15 cases, the LCI offers the following conclusion:

In most of the cases no compensation has been awarded. In those in which compensation has been awarded the sum is minimal and is totally inadequate to meet even the medical expenses. Normally courts just levy fines without even giving these to the victims. The section on Compensation in the Cr.P.C. [that this report proposes be enacted] should therefore clearly spell out that the fines levied should be given to the victim or their dependents.... [T] here is an urgent need . . . to setup a Criminal Injuries Compensation Board in India to deal with such cases in an effective and efficient manner, to help the victims of acid attack to get compensation for medical expenses and rehabilitation apart from making Section 357 Cr.P.C. mandatory in certain respects.¹¹

Second, in Chapter VI, the Law Commission gives its final conclusions and recommends three major legislative reforms: increased criminal sanctions for perpetrators of acid violence, increased regulation of acid sales, and a new law for compensating survivors¹² Most importantly the LCI points out that Section 326 of the IPC, which previously dealt with causing grievous hurt by throwing of a corrosive substance, was “insufficient/ inadequate to deal with the issue”.¹³

Firstly, the definition of grievous hurt is not broad enough to cover the various kinds of injuries which are inflicted during acid attacks. Secondly, the section does not cover the act of administering acid. Thirdly the section gives a wide discretion to the courts as far as punishment is concerned. The cases on acid attacks in India show that normally, inadequate punishment is awarded in these cases. Fourthly, the section in the IPC does not punish the intentional act of

⁹Ibid., 20 (Discussing State of Karnataka by Jalahalli Police Station vs. Joseph Rodrigues S/o V.Z. Rodrigues, High Court of Kerala, decided 22 August 2006)

¹⁰Ibid., 21.

¹¹Ibid., 21.

¹²Ibid., 41, 44

¹³Ibid., 42.

throwing of acid if no injuries occur. Lastly the section also does not specify who the fine is awarded to.¹⁴

While the LCI proposes specific language for reforming the criminal law (similar in many respects to the language in the 2008 NCW Scheme),¹⁵ its recommendation regarding compensation is framed in much more general terms:

We propose that a law known as “Criminal Injuries Compensation Act” be enacted as a separate Law by the government. This law should provide both interim and final monetary compensation to victims of certain acts of violence like Rape, Sexual Assault, Acid Attacks etc. and should provide for their medical and other expenses relating to rehabilitation, loss of earnings etc. Any compensation already received by the victim can be taken into account while computing compensation under this Act.¹⁶ In summary, the Law Commission’s 2008 Report is useful to advocates for at least three reasons:

1. It provides a reputable Indian Government source that explains the severity of the physical, psychological, social, and economic harms caused by acid attacks.
2. It endorses a relatively expansive view of the kinds of injuries and needs for which survivors are entitled to receive compensation and rehabilitation. These include medical rehabilitation (including surgical and psychological),¹⁷ various forms of economic loss,¹⁸ and the somewhat imprecise (though expansive) category of the “after effects” of an attack.¹⁹
3. The report seems to implicitly endorse the proposition that Articles 21 and 38(1) of the Constitution of India (as interpreted by two Supreme Court judgments from the 1990s which direct the Government to provide rape

¹⁴Ibid., 42.

¹⁵It should be noted, however, that the LCI had been advocating for similarly reforms at least since 1994, when it first proposed adding a provision for compensating survivors of crime at Cr.P.C. Section 357A see S. Muralidhan, Rights of victims in the Indian Criminal Justice System, National Human Rights Commission J. 3-4 & notes 49-50 (2004), available at <http://www.ielrc.org/content/a0402.pdf>.

¹⁶Ibid., 44.

¹⁷Ibid., 6 (“proper treatment, aftercare and rehabilitation”); *ibid.*, 21 (“medical expenses and rehabilitation”); *Ibid.*, 8 (referring to compensation to cover vital surgeries for victims who can no longer support themselves” as “imperative”).

¹⁸*Ibid.* 6 (economic rehabilitation); *ibid.*, 20 (loss of income), *Ibid.*, 44 (loss of earnings)

¹⁹*Ibid.*, 16(referring to “after effects” that are “distinct and scar the victim”); *ibid.*, 20 (offering two examples of “after effects” as “loss of income etc.” and “trauma which effects the victims throughout her life”).

survivors with rehabilitation) provide a viable constitutional ground for requiring the Government to compensate survivors of acid violence.

4(B).2 Constitutional and Statutory Provisions for Seeking Compensation

4(B).2.1 Constitutional Provisions

In 1995 and 1996, a pair of Supreme Court judgments established an obligation under Articles 21 and 38(1) of the Constitution for the Government to provide rape survivors with compensation.²⁰ One remarkable aspect of these decisions is that their underlying reasons and rationales are even more convincing when applied to survivors of acid violence, thus providing a readymade constitutional argument for extending these two cases to those who have survived acid attacks.²¹

In the 1995 case of *Delhi Domestic Working Women's Forum vs. Union of India*,²² the Supreme Court declared it "necessary" under Article 38(1) for the government to establish a "Criminal Injuries Compensation Board" that would compensate rape survivors for their "pain, suffering and shocks as well as loss of earnings," regardless of whether a conviction takes place.²³ The Court then directed the NCW, a respondent in the case, to develop a compensation scheme consistent with the judgment, which would be implemented by the Union of India.²⁴

²⁰Cf. Const. of India, Art.38(1) ("The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of the national life.")

²¹Moreover practical considerations should not decrease the appeal of this arguments appeal vis-à-vis judges concerned about separation of powers issues, as the relatively low number of acid attack survivors in India means that the government could implement such a decision with negligible impact on its budget.

²²1995 SCC (1) 14, JT (7) 183 (19 Oct. 1994), available at <http://indiankanoon.org/doc/1765970/>-

²³ Ibid., Para 15 ("(7) It is necessary, having regard to the Directive Principles contained under Article 38(1) of the Constitution of India to set up Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example, are too dramatized to continue in employment. (8) compensation for victims shall be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation board whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earning due to pregnancy and the expenses of the child but if this occurred as a result of the rape.")

²⁴Ibid., Para 18 ("Having regard to the above to the provisions, the third respondent [i.e., the NCW] will have to evolve such [compensation] scheme as to wipe out the tears of such unfortunate victims. Such a scheme shall be prepared within six months from the date of this judgment. Thereupon, the Union of India will examine the same and shall take necessary steps for the implementation of the scheme at the earliest.")

The Delhi Domestic Court justified its decision by remarking, “in recent times, there has been an increase in violence against women causing serious concern,” and by characterizing rape as a “trauma” and “an experience which shakes the foundations of the lives of the victims. For many, its effect is a long-term one, impairing their capacity for personal relationships, altering their behavior and values and generating endless fear.”²⁵ The Court also quotes the following passage from O'Reilly with approbation:

We are now victim-oriented and have taken an active role in getting the entire helping network lawyers, doctors, nurses, social workers, rape crises centre workers to talk and to interact together We are then in a position to concentrate fully on the primary, goal that unites us all helping victims of sexual assault to get their lives back together.²⁶

In the 1996 case of **Bodhisattwa Gautam vs. Shubhra Chakraborty**,²⁷ the Supreme Court extended the reach of its Delhi Domestic judgment by finding that courts have jurisdiction to award not only final compensation upon conviction, but interim compensation as well:

This decision recognises the right of the victim for compensation by providing that it shall be awarded by the Court on conviction of the offender subject to the finalisation of Scheme by the Central Government. If the Court trying an offence of rape has jurisdiction to award the compensation at the final stage, there is no reason to deny to the Court the right to award interim compensation which should also be provided in the Scheme. On the basis of principles set out in the aforesaid decision in **Delhi Domestic Working Women's Forum**, the jurisdiction to pay interim compensation shall be treated to be part of the overall jurisdiction of the Courts trying the offences of rape which, as pointed out above is an offence against basic human rights as also the Fundamental Right of Personal Liberty and Life.²⁸

²⁵Ibid., Para. 13.

²⁶Ibid., Para. 14.

²⁷1996 AIR 922, 1996 SCC (1) 490 (15 December 1995), available at <http://indiankanoon.org/doc/642436/>.

²⁸ Ibid (“This decision recognises the right of the victim for compensation by providing that it shall be awarded by the Court on conviction of the offender subject to the finalisation of Scheme by the Central Government. If the Court trying an offence of rape has jurisdiction to award the

The Court spoke at length and with eloquence about the nature of Fundamental Rights (inclusive of Article 21) and the Directive Principles (inclusive of Article 38) under the Constitution:

This Court through its various decisions h. already given new dimensions, meaning and purpose to many of the fundamental rights especially the Right to Freedom and Liberty and Right to Life. The Directive Principles of the State Policy have also been raised by this Court from their static and unenforceable concept to a level as high as that of the fundamental rights.

This Court has, innumerable times, declared that "Right to Life" does not merely mean animal existence but means something more, namely, the right to live with human dignity. Right to Life would, therefore, include all those aspects of life which go to make a life meaningful, complete and worth-living. Unfortunately, a woman, in our country, belongs to a class or group of society who is in a disadvantaged position on account of several social barriers and impediments and has, therefore, been the victim of tyranny at the hands of men with whom they, fortunately, under the Constitution enjoy equal status. Women also have the right to life and liberty; they also have the right to be respected and treated as equal citizens. Their honour and dignity cannot be touched or violated. They also have the right to lead an honourable and peaceful life. Women, in them, have many personalities combined. They are Mother, Daughter, Sister and Wife and not play things for centre spreads in various magazines, periodicals or newspapers nor can they be exploited for obscene purposes. They must have the liberty, the freedom and, of course, independence to live the roles assigned to them by Nature so that the society may flourish as they alone have the talents and capacity to shape the destiny and character of men anywhere and in every part of the world.

Rape is thus not only a crime against the person of a woman (victim), it is a crime against the entire society. It destroys the entire psychology of a woman

compensation at the final stage, there is no reason to deny to the Court the right to award interim compensation which should also be provided in the Scheme. On the basis of principles set out in the aforesaid decision in Delhi Domestic Working Women's Forum., the jurisdiction to pay interim compensation shall be treated to be part of the overall jurisdiction of the Courts trying the offences of rape which, as pointed out above is an offence against basic human rights as also the Fundamental Right of Personal Liberty and Life."); See also LCI 2008 Report, 39 (discussing Bodhisatrwa Gautam),.

and pushed her into deep emotional crises. It is only by her sheer will power that she rehabilitates herself in the society which, on coming to know of the rape, looks down upon her in derision and contempt. Rape is, therefore, the most hated crime. It is a crime against basic human rights and is also violative of the victim's most cherished of the Fundamental Rights, namely, the Right to Life contained in Article 21. To many feminists and psychiatrists, rape is less asexual offence than an act of aggression aimed at degrading and humiliating women. The rape laws do not, unfortunately take care of the social aspect of the matter and are inept in many respects.²⁹

Although written with rape survivors in mind, the above excerpt—and the final paragraph in particular—clearly applies with equal (or even greater) cogency to survivors of acid violence. It view of all this, it is particularly interesting that the LCI opens Chapter V (Compensation for the Victim) of its 2008 Report to the Laxmi's case with a discussion of the Delhi Domestic and Bodhisattwa Gautam judgments. In doing so, the LCI seems to advance an implicit argument that, since the nature of acid attack survivors' injuries and needs are no less severe than those of rape survivors, logic would seem to require that the Delhi Domestic and Bodhisattwa Gautam interpretation of Articles 21 and 38(1) be extended to cover survivors of acid violence as well.³⁰ Notwithstanding the unassailable logic of this position, however, the Commission seems reluctant to make this argument directly to the Laxmi's case. Rather, the Commission avoids the constitutional question pivoting to a review of the 2008 NCW Scheme and compensation legislation in Canada and the UK, and then ultimately recommending that compensation for acid attack survivors be provided through legislative reform.³¹ Notwithstanding this recommendation, the LCI makes a compelling, if unspoken, case for extending the Delhi Domestic and Bodhisattwa Gautam judgments to

²⁹ Ibid.

³⁰ LCI 2008 Report 38-39; see also *ibid.*, 39 (criticizing the NCW's proposed legislation for "restricting the function of the board [i.e., the NCW's proposed National Acid Attack Victims Assistance Board] to only acid attack cases" presumably because it would be more efficient to have a single scheme for assisting survivors of both rape and acid attacks, thus implicitly buttressing the argument for extending Delhi Domestic Working Women's Forum and Bodhisattwa Gautam to acid attack survivors).

³¹ *Ibid.*, 41 ("After looking at the various legislations we feel that a separate act should be proposed for dealing with compensation to victims of acid attacks, rape, sexual assault, kidnapping etc. We are suggesting a broader legislation so that it can deal with the problems of victims of different crimes who need rehabilitation and compensation for survival.")

cover acid attack survivors. This argument may provide the most promising constitutional basis for winning compensation for survivors.³²

4(B).2.2 Cr. P.C. Section 357

Cr. P.C. section 357 was the main provision under which compensation for acid attack survivors was derived from before the Code of Criminal Procedure (Amendment) Act, 2008. Section 357(1)(b) gives courts discretion to order "payment to any person of compensation for any, loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court." Historically, however, judges have only used Section 357 to impose token fines on those convicted of perpetrating acid violence.³³ An important aspect of Section 357 is that constitutional limitations on sentencing require that any fines imposed under 357 for providing restitution to the victim must be balanced against imprisonment imposed on the perpetrator. A judge has to make a decision on whether they want to order a big fine or a greater prison sentence, because usually they cannot order both. Secondly there are constitutional limitations on a judge's ability to use 357 irrespective of any imprisonment imposed. Namely restitution ordered under 357 must be rationally related to a perpetrator's ability to pay. In other words, a judge cannot order a destitute perpetrator to pay the victim a vast sum of money regardless of the extent of the harm caused by the perpetrator which, in the case of an acid attack is likely to be great.

4(B).2.3 Cr.P.C. Section 357A

Because Cr. P.C. Section 357, which leaves the subject of compensation entirety to the judge's discretion, has proven to be grossly inadequate in compensating survivors, the Code of Criminal Procedure (Amendment) Act 2008

³² One counterargument to this position is that Delhi Domestic and Bodhisattwa Gautam were decided in a pre-Section 357 world, where the Constitution required that judicial remedies be fashioned as ad hoc placeholders until such time as the executive or legislative got its act together to provide a suitable permanent remedial scheme. Now that legislature has exercised its inherent police powers to provide such a scheme in Cr.P.C. Section 357 A, so the argument might go, the judicial remedy no longer serves a valid purpose and should exit the stage. The problem with this argument however, is that Delhi Domestic and Bodhisattwa Gautam are constitutional decisions- i.e., they establish a non-derogable constitutional floor for judging the adequacy of any government scheme concerning compensation of rape survivors. If these cases could be extended to cover survivors of acid violence, the same would be true there.

³³I.C.I. 2008 Report, 17.

(Act. No. 5 of 2009) introduced Section 357A. The core provision of Section 357A provides that “every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.”³⁴ In other words, Section 357A requires the State/UT Governments to develop comprehensive compensation schemes for compensating victims of crime, including survivors of acid violence.

In its order dated 11.02.2011, in Laxmi’s case the Court rebuked the State and UT Governments for failing to prepare any survivor compensation schemes under Section 357A and directed the Home Ministry, in coordination with the States and UTs, “to prepare schemes as provided in Section 357A for the purpose of providing compensation to victims of crimes, in particular acid attack victims.”

4(B).2.4 Cr.P.C. Section 357B

The compensation payable by the State Government is in addition to the fine payable to the victim under Section 326A and 376D of the IPC.³⁵

4(B).2.5 Cr.P.C. Section 357C

Introduced by Criminal Law (Amendment) Act, 2013, Cr. P.C. Section 357C states, all hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately provide first-aid or medical treatment free of cost, to the victims of any offence covered under Section 326A, 326B, 367A, 376B, 376C, 376 D or Section 376E of the Indian Penal Code and shall immediately inform the police of such incident." This provision clearly states that hospitals, whether public or private, are statutorily required to provide medical treatment free of cost in cases of acid attacks (Sections 326A, 326B).³⁶

³⁴Section 357 A Criminal law, Amendment Act, 2008 (Act No.5, 2009).

³⁵Section 357 B Criminal law, Amendment Act, 2013 (Act No.13, 2013).

³⁶Ibid.

4(B).3 Public Interest Litigations/Landmark Judgements with respect to compensation for acid attack survivors

4(B).3.1 Laxmi vs. Union of India and others³⁷

In 2014, the judiciary tried to develop a new Jurisprudence in the case of **Laxmi v. Union of India**. The victim of a gruesome acid attack, Laxmi, has filed a writ petition in the Supreme Court of India in May, 2006 in which the Law Commission of India has been arrayed as the Respondent No.2.

Naeem Khan v. State³⁸, Laxmi (15years old) was working as a sales representative at New Janta Book Depot, Khan Market and has studied up to class 8. The boy named Naeem Khan (Guddu), was employed in her neighbourhood. Laxmi's mother before marriage belonged to Muslim religion and therefore, Guddu was a regular visitor in her house. Infact, the entire family of the Guddu was acquainted and well known to Laxmi's family as they had known each other for several years. Laxmi stated the appellant started talking about falling in love with her over the telephone and also sent few messages in this regard. The accused also placed the proposal of marriage before her family but Laxmi resisted the same because of the large gap between their ages. Thereafter, the accused started pressurizing Laxmi for marriage and to maintain telephonic ties with him which was either evaded or turned down by her. On 22.04.2005 at about 10:30 am, when she was going towards Khan Market from her house, a motorcycle stopped near her at Hanuman Road. The driver of the motorcycle was wearing black coloured helmet and had a lean body which was similar to that of the appellant. Laxmi further stated that the pillion rider was a woman aged about 28-30 years who alighted from the motorbike and threw acid on her face as a result of which her face and chest were burnt. On Laxmi's effort to save her by raising her hands, the acid burnt her hands as well. Laxmi stated that she had seen the woman who threw acid on an earlier occasion as well with Imran, the brother of the appellant and her name was either Rakhi or Rekha. On raising alarm, she fled from the scene after sitting on the motorcycle driven by the appellant. On hearing

³⁷(2014) 4 SCC 427

³⁸Cri. App. 980 of 2009 (Delhi HC.)

cries, people gathered but no one offered help and later on a PCR van transported her to the hospital.

On injured Laxmi implicating the accused, the latter was arrested. A criminal case of attempt to murder was registered and the two accused, Rakhi and Guddu, were sentenced to 7 and 10 years imprisonment, respectively, by the Trial Court. Later the accused went in appeal in the Delhi High Court where the Court directed the appellant to pay a sum of Rs 3 lakhs as fine which is to be forwarded to victim Laxmi as compensation under the provision of compensation under Code of Criminal Procedure³⁹. It was further recommended that the case of victim Laxmi be considered by the Delhi Legal Services Committee for appropriate compensation which can be paid to her on behalf of the State Government under the victim compensation scheme as applicable to the National Capital territory of Delhi. The appeal was dismissed.

After this in 2006, Laxmi filed a Public Interest Litigation in the Supreme Court urging for regulation on sale of acid. The Union of India (Petitioner no.1), Law Commission of India (Petitioner no.2) and National Commission for women (Petitioner no.3) were the three respondents in the Writ Petition. In her plea, she had sought framing of a new law or amendment to the existing criminal laws like Indian Penal Code, Indian Evidence Act and Code of Criminal Procedure for dealing with the offence, besides asking for compensation.⁴⁰

Major issues in the case were:

1. An amendment to the Penal Code wherein a Section is introduced regarding acid attacks;
2. It further demanded a complete ban on sale of acid;
3. Rehabilitation Scheme for victims of acid;
4. Free medical treatment for survivors.

Then on April 28, 2008 the Court ordered an investigation and action on the issue. The Learned Additional Solicitor General submitted that the Government of India will look into several aspects of the problem, consider the

³⁹S. 357(1) b, Code of Criminal Procedure, 1973, (Act No.2, 1974).

⁴⁰Laxmi v. Union of India, (2014) 4 SCC 427.

suggestion and formulate procedures to curtail and regulate the sale of acid/corrosive substances across the country. He also submitted that feasibility of making appropriate amendments to existing laws will also be considered. The Hon'ble Supreme Court on 11 February 2011 issued directions to all the State Governments to indicate what steps they have taken to allocate resources for providing compensation to victims of acid attacks under the abovementioned amendment made to Code of Criminal Procedure regarding victim compensation Scheme under Code of Criminal Procedure⁴¹. It also directed that as one of the matters of concern in regard to acid attacks is the free availability of acid, the Central Government and the State Governments may also consider making appropriate provision for regulation of sale of acids so that it is not easily or readily available to offenders.⁴²

In the meantime the Criminal Law Amendment was made. In this Petition, as already mentioned above that Law Commission of India has been arrayed as the Respondent No. 2. gave a major response to the petition. Though the Law Commission had pointed out to the Court that the reliefs in the petition cannot be prayed for from the Law Commission, it decided to take up the matter *suo moto* in view of the gravity of the offence of acid attacks and gave report for the inclusion of acid attacks as specific offences in the Indian Penal Code. According to the Commission there is no special Section in the Indian Penal Code which deals with acid attacks, the incidents are not even recorded separately. The provision of the Indian Penal Code, which deals with causing grievous, hurt by throwing of a corrosive substance etc.⁴³, is inadequate to deal with the issue that if a person has thrown or administered the acid on another person a presumption should be raised against the person, who has thrown or administered the acid, that he has done so deliberately. Apart from the above, the distribution and sale of Acid should be banned except for commercial and scientific purposes. Victims of acid attacks need compensation for rehabilitation, a law should be enacted to set in place Criminal Injuries Compensation Boards at the Centre, State and District levels in our country. The committee proposed that a new provision (Hurt by Acid and

⁴¹S.357A. Criminal law Amendment Act, 2008 (Act No.5, 2009).

⁴²S.357(1) b. Code of Criminal Procedure, 1973, (Act No.2, 1974).

⁴³ "Maimed and scarred: Acid attack victims need relief, 'The Tribune, 10 (January 28, 2013).

intentionally throwing or administering acid)⁴⁴ be added to the Indian Penal Code. It further proposes that for the reasons stated above, that in cases of acid attack a presumption be incorporated in the Indian Evidence Act⁴⁵. It also proposed Criminal Injuries Compensation Act is enacted as a separate Law by the government. This law should provide both interim and final monetary compensation to victims of certain acts of violence like Rape, Sexual Assault, Acid Attacks etc. and should provide for their medical and other expenses relating to rehabilitation, loss of earnings etc. It also recommends that the distribution and sale of acid be strictly regulated and the sale of Acid across shop counters be banned.⁴⁶ These amendments eventually came to be passed in 2013 in the Criminal Law Amendment Act 2013.

A. Directions / Recommendations by Hon'ble Supreme Court on Sale of Acid:

In the order dated April 16, 2013, the Court expressed its concern as tragic incidents of acid attacks continue to happen. One of the main reasons for these incidents is easy availability of acid in retail across the counter. The Court further expressed its concern as neither the Central Government nor the State Governments/Union Territories have been able to address this grave issue. On 18 July 2013, the Court after reviewing various facets, affidavits submitted by Government and Rules framed by various state Government suggested that the Centre and State/ UT's shall work towards making the offences under the Poisons Act, 1919 cognizable and non-bailable.⁴⁷

Supreme Court issued certain directions relating to sale of acid, which are as follows:⁴⁸

In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of

⁴⁴Criminal Law (Amendment) Act of 2013 (amending the Indian Penal Code at Section 326 A).

⁴⁵Criminal Law (Amendment) Act of 2013 (amending the Evidence Act at S.114 B,).

⁴⁶Law Commission of India, 226th Report on Proposal for inclusion of acid attacks as specific offences in the Indian Penal Code and a law for compensation for victims of crime 3, (July, 2008), available at: <http://lawcommissionofindia.nic.in/reports/report226.pdf>, (visited on July 20, 2014).

⁴⁷Ibid.

⁴⁸Ibid.

the Union Territories shall ensure the compliance of the following directions with immediate effect:

(vi) Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.

(vii) All sellers shall sell acid only after the buyer has shown:

(a) A photo ID issued by the Government which also has the address of the person.

(b) Specifies the reason/ (b) for procuring acid.

(viii) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days.

(ix) No acid shall be sold to any person who is below 18 years of age.

(x) In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000.

The educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines:

(iv) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.

(v) A person shall be made accountable for possession and safe keeping of acid in their premises.

(vi) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used.

The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions. The concerned SDM may impose fine up to 50,000 on any person who breaches above provisions.

During the pendency of this petition, the Code of Criminal Procedure, 1973 was amended and Section 357A was inserted by Act of 2009 which requires every State Govt., in coordination with the Central Government, to prepare a scheme for providing funds for purpose of compensation to the victims or their dependents who have suffered loss or injury as a result of crime and who require rehabilitation. The Court on July 18, 2013, said that the Court is informed that pursuant to the above said provision, 17 States and 7 Union Territories have prepared 'Victim Compensation Scheme'. But the compensation mentioned in the scheme made by these States/UT's is not uniform. While the State of Bihar has provided compensation of Rs. 25,000/-in such scheme, the State of Rajasthan has provided for Rs. 2 Lakhs of compensation. In the opinion of the Court the compensation provided by most of the States/UT's are inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem the Court suggested that the compensation by all the States/UT's must be enhanced to at least Rs. 3 Lakhs as the after care and rehabilitation cost.⁴⁹

The Supreme gave major directions/ recommendations relating to acid attacks. The researcher has compiled these directions/ recommendations under the following heads:

B. Directions / Recommendations by Hon'ble Supreme Court on compensation to acid attack victims:⁵⁰

The acid attack victim shall be paid compensation of at least Rs.3 lakhs by the concerned State Government/Union Territory as the after care and Rehabilitation. The Court also said that out of the compensation amount of Rs 3 lakh, Rs 1 lakh will be paid within 15 days of the occurrence of the attack being brought to the notice of the state government. The balance of Rs 2 lakh shall be

⁴⁹Ibid.

⁵⁰Ibid.

paid by the state or Union Territory concerned as expeditiously as possible and positively within two months of the incident, adding that the compliance of the order has to, ensured by the Chief Secretaries of the states and administrators of the UTs respectively.

C. Directions / Recommendations by Hon'ble Supreme Court on Medical treatment, aftercare and rehabilitation of acid attack victims:

First aid must be administered to the victim and after stabilization; the victim/patient could be shifted to a specialized facility for further treatment, wherever required. Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973. The Court further issue a direction that the State Governments/Union Territories should seriously discuss and take up the matter with all the private hospitals in their respective State/Union Territory to the effect that the private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries.⁵¹

The Supreme Court also issue a direction that the hospital, where the victim of an acid attack is first treated, should give a certificate that the individual is a victim of an acid attack. This certificate may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be. In the event of any specific complaint against any private hospital or government hospital, the acid attack victim will, of course be at liberty to take further action,

D. Directions / Recommendations by Hon'ble Supreme Court on Criminal Injuries Compensation Board:

The Supreme Court gave the directions that in case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the

⁵¹Ibid.

Chief Medical Officer of that District or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes. A copy of this order be sent to learned counsel appearing for the Secretary in the Ministry of Home Affairs and the Secretary in the Ministry of Health and Family Welfare for onward transmission and compliance to the Chief Secretary or their counterparts in all the States and Union Territories. The Chief Secretary will ensure that the order is sent to all the District Magistrates and due publicity is given to the order of this Court. A copy of this order should also be sent to the Member Secretary of NALSA for onward transmission and compliance to the Member Secretary of the State Legal Services Authority in all the States and Union Territories. The Member Secretary of the State Legal Services Authority will ensure that it is forwarded to the Member Secretary of each District Legal Services Authority who will ensure that due publicity is given to the order of this Court.

The writ petition is disposed of in the above terms.

4(B).3.2 Parivartan Kendra & Anr v. U.O.I & Ors,⁵²

In the writ petition, filed in public interest under Article 32 of the Constitution of India, the petitioner (Parivartan Kendra; a registered NGO) seeks to highlight the plight of the acid attack victims and the inadequacy how the compensation payable to the victims as per the orders of the Apex Court in **Laxmi v. Union of India**⁵³. Petitioner also highlights the lack of a legal guarantee to free medical care, rehabilitative services or adequate compensation under the Survivor Compensation Schemes. The petitioner highlighted the plight of two dalit girls of Bihar, who were attacked around midnight of October 21, 2012 by four assailants who threw acid on the face and bodies of the girls while they were sleeping on their rooftops. It is alleged that these young assailants used to harass the elder sister on the streets, market and in the auto rickshaw while she was going to computer classes or to work. This victim wanted to be a computer engineer and used to go to college regularly and supported her family working as a daily wage worker. However, these assailants used to make sexual advances towards her, pass lewd comments, and also used to pull her dupatta. They terrorized her and her

⁵² 2016(1) RCR (Criminal) 336.

⁵³ Laxmi v. Union of India, (2014) 4 SCC 427

family members by roaming near her house on their motorcycles, tore the curtains of their house and told her that if she did not heed to their demands and agree to have sexual relations with them they would damage and destroy her face. In the aforesaid midnight, while both sisters were sleeping, assailants Anil Rai, Ghanshyam Rai, Badal and Raja climbed upon the roof and Anil covered the elder sister's mouth so that she could not scream and Ghanshyam and Raja held her legs so that she could not move. When Anil Rai was pouring the acid on her body and face, the acid also fell on her sister's body and burnt her arm. After the attack, these men did not make any effort to flee as they wanted to stay and enjoy the moment. As the acid started burning the girls, the girls started screaming and crying waking up their parents, who rushed to the rooftop. Upon this, the assailants fled. The victims were rushed to the Patna Medical College and Hospital. According to the petitioner, the doctors arrived only the next morning and did not give then proper treatment and the family had to buy all the medicines on their own. Thereafter, victims' family was given Rs. 2,42,000/- from the Government of Bihar for the treatment of both. It has been contended by the petitioner that till the filing of this writ petition more than Rs. 5 lakhs had already been spent on their treatment and still the victims require more treatment.

The petitioner submitted that proper and adequate treatment was not given to the victims. The Patna Hospital waited for more than a month to conduct elder sister's grafting surgeries. Three grafting surgeries were performed on the elder sister. It is claimed that all these three surgeries were not performed properly and that the hospital staff and doctors mistreated the victim and their family as they belonged to a lower caste. With the help of the petitioner-Society, the victim was transferred to Safdarjung Hospital, Delhi on April 5, 2013, where she finally received proper treatment. It has been further contended by the petitioner that the Police also arrested the four perpetrators a month after the attack in November, 2012 in response to intense pressure from social organizations and the media. On 8.2.2013, the IG of Police had made a statement in an interview that the statement of the victim would be taken for the recording of confessions and statements⁵⁴ under the Criminal Procedure Code. However, according to the petitioner, no such statement had been taken till filing of the writ petition. The victim and her family

⁵⁴ S.164.Criminal Procedure Code. 1973 (Act No. 2, 1974)

are, therefore, appalled by the treatment they have received at the hands of the Patna Hospital, the Police and the Government of Bihar.

The Court, on perusal of various contentions and evidence, find it imperative to mention that even after this Court having passed an order dated 06.02.2013 directing the Union of India and States to implement compensation payable to acid attack victims by creation of a separate fund, only 17 States have been notified of the Victim Compensation Schemes (VSC). Out of which 7 states and 4 Union territories have not initiated the VSC. Even in those States where the Scheme has been implemented a meager compensation ranging between Rs. 25,000/- to Rs. 2 lakhs are provided for medical care. And many States have not provided any compensation for rehabilitation at all. In the present case, the Govt. of Bihar has fixed a pitiable amount of Rs. 25,000/- for the victims of acid attack.

The Court said that the guidelines issued by orders in the Laxmi's case are proper, except with respect to the compensation amount. The Court just needs to ensure that these guidelines are implemented properly. Keeping in view the impact of acid attack on the victim on his social, economical and personal life, the Court needs to enhance the amount of compensation. The Court cannot be oblivious of the fact that the victim of acid attack requires permanent treatment for the damaged skin. The mere amount of Rs. 3 lakhs will not be of any help to such a victim. The Court is conscious of the fact that enhancement of the compensation amount will be an additional burden on the State. But prevention of such a crime is the responsibility of the State and the liability to pay the enhanced compensation will be of the State.

The enhancement of the Compensation will act in two ways:

1. It will help the victim in rehabilitation;
2. It will also make the State to implement the guidelines properly as the State will try to comply with it in its true spirit so that the crime of acid attack can be prevented in future.

Having regard to the problems faced by the victims, this Court enhanced the compensation, stating that, “at least Rs.3 Lakhs must be paid to the victims of acid attacks by the concerned Government.” Therefore, a minimum of Rs.3 Lakhs

is to be awarded by the Government to each victim of acid attack. But in the above said case, a minimum amount of Rs. 6 Lakhs has to be awarded to the sisters.

Further the Court said that, we are of the view that victim Chanchal deserves to be awarded a compensation more than what has been prescribed by this Court in the Laxmi's case. Though in this case the Court is not issuing any guidelines different from the guidelines issued in Laxmi's case, we should not forget that the younger sister was also injured by the acid attack. Although her degree of sufferance is not as that of the elder one, but she also requires treatment and rehabilitation. It is to be noted that this Court in Laxmi's case doesn't put a bar on the Government to award compensation limited to Rs.3 Lakhs. The State has the discretion to provide more compensation to the victim in the case of acid attack as per Laxmi's case guidelines. It is also to be noticed that this Court has not put any condition in Laxmi's case as to the degree of injuries which a victim has suffered due to acid attack. In the instant case, the victim's father has already spent more than Rs. 5 lakhs for the treatment of the victim. In consideration of the severity of the victim's injury, expenditure with regard to grafting and reconstruction surgery, physical and mental pain, etc., we are of the opinion that the victim (Chanchal) should be compensated to a tune of at least Rs. 10 Lakhs. Suffice it to say that the compensation must not only be awarded in terms of the physical injury, we have also to take note of victim's inability to lead a full life and to enjoy those amenities which is being robbed of her as a result of the acid attack. Therefore, this Court deems it proper to award a compensation of Rs. 10 lakhs and accordingly, we direct the concerned Government to compensate the victim Chanchal to a tune of Rs. 10 Lakhs, and in light of the Judgment given in Laxmi's case we direct the concerned State Government of Bihar to compensate the main victim's sister, Sonam to a tune of Rs. 3 lakhs. Of the Total amount of Rs. 13 Lakhs, a sum of Rs. 5 lakhs shall be paid to the victim and her family within a period of one month and the remaining sum of Rs. 8 lakhs shall be paid to the victims within a period of three months from the date of this order. Furthermore, the State shall upon itself take full responsibility for the treatment and rehabilitation of the victims of acid attack as per the Guidelines provided in Laxmi's case.

Disposing of the present writ petition, the Court additionally direct all the States and Union Territories to consider the plight of such victims and take appropriate steps with regard to inclusion of their names under the disability list.

4(B).3.3 Ayushi Dubey & Ors. v. State of U.P. Ors.,⁵⁵

Human Rights Law Network Allahabad filed this writ petition on behalf of Madhuri Prajapati, an acid attack survivor after news broke of an acid attack on November 9, 2013. Legal interns from the Allahabad Human Rights Law Network office conducted a fact-finding to submit to the Court. Machli Gao was sleeping in her Kaccha house (Mud House) with her mother when the accused, Vimal Maurya threw acid on Madhuri Prajapati and her mother Champa Prajapati. Before the attack Vimal Maurya stalked Madhuri and proposed to her. The attack came as a result of her refusal to marry him. The acid attack completely destroyed the left side of Madhuri's face. She also sustained injuries on her neck and face. Her mother has severe burn patches on the same side of the face and body. Initially, Madhuri went to the Community Health Centre (CHC) for treatment. The CHC did not have adequate facilities, so Madhuri went to the Jaunpur District Hospital for care. Again, because of inadequate facilities the District Hospital referred Madhuri to the Pragya Nursing Home Hospital at Varanasi. The major issues in the Writ Petition were that the Chief Medical Officer should constitute a team of doctors and experts to examine Madhuri and to provide free treatment and plastic surgery and to provide compensation for survivor and her mother and to reimburse the survivors for medical expenses. Other important issues were ensure that the First Information Report is lodged under Section 326(a) and 326(b) of the Criminal Law Amendment Act, 2013 and to fast track the criminal trial. The High Court ordered the state to establish a medical team of doctors and experts to examine the condition of the survivor and her mother and to make an assessment of the necessary steps for her treatment and rehabilitation. The Court also ordered the Respondents to provide treatment for Madhuri and to provide an ambulance to transport Madhuri and her mother to and from the hospital. The Court ordered the State Government to frame a victim compensation scheme under provisions of the

⁵⁵WP (C) NO. 68901/ 13, available at: <http://www.hrin.org/hrinipublicationsibooks/1658.html> (visited on November 3, 2016).

Criminal Procedure Code.⁵⁶ At the same time the Court ordered the Respondents to reimburse Madhuri and her mother for their medical expenses. Additionally, the Court ordered the district judge to monitor the trial Court and to make reports to the High Court on the progress.⁵⁷

4(B).3.4 Ravada Sasikala v. State of Andhra Pradesh and Anr⁵⁸

The Supreme Court in the case dealt with the imposition of sentence and its proportionality with the crime in question. The elder brother of the appellant proposed marriage of his younger brother to the family of the respondent, who was a young girl at the time. The family was unwilling to accept the proposal. The appellant then trespassed into the house of the respondent and emptied a bottle of acid on her head and face, causing permanent disfiguration and great mental agony. A First Information report for house-trespass⁵⁹ and attempt to murder⁶⁰ under Indian Penal Code was filed. The Sessions Judge held the appellant guilty for voluntarily causing grievous hurt by dangerous weapons or means⁶¹. At the time of sentencing, the convicted pleaded mercy on grounds of needing to support his elderly parents, economic considerations etc. He was awarded one year rigorous punishment with a fine of Rs. 5,000/- for voluntarily causing grievous, hurt and Rs. 1,000/- for committing house trespass. After which the State preferred an appeal before the High Court. The High Court reduced the quantum of the sentence, keeping in mind the period of sentence the accused has already gone, while keeping the fines at the same cost. The major issue in the case was whether the sentence that the High Court has given to the convict is justice delivered to the respondent, given that she suffered a permanent mental and physical scar at the hands of the convict or not. The Supreme Court expressed shock at the sentence given to by the High Court, pointing out dozens of cases whose precedents were entirely ignored while granting reprieve to the convict. The Supreme Court took into consideration various other judgments such as State

⁵⁶Laxmi v. Union of India, (2014) 4 SCC 427.

⁵⁷ Supra note 415.

⁵⁸Available at: <http://thelegiteye.in/2017/02/28/rs-3-5-lakhs-compensation-for-acid-attack-victim-sc/>.(visited on June1, 2017)

⁵⁹S.448, Indian Penal Code, 1860, (Act No. 4, 1960)

⁶⁰S.307 Indian Penal Code, 1860, (Act No. 4, 1960)

⁶¹S. 326, Ibid.

of **M.P. v. Mehtaab**⁶², **Suresh V. State of Haryana**⁶³, **State of Himachal Pradesh V. Ram Pal**⁶⁴, and **Manohar Singh v. State of Rajasthan and Ors.**⁶⁵, on the quantum of punishment. In light of the cases quoted, and keeping in mind the mental and physical trauma as well as the social ostracization that the respondent suffered, the Supreme Court set aside the sentence given by High Court and reinstated the original sentence given by the trial Court. Furthermore, it addressed the question of victim compensation under the Criminal Procedure Code. It directed the appellant to pay the victim Rs. 50,000/- within a period of six months. Should he fail to pay, a further sentence of 6 months of rigorous imprisonment on top of the original sentence of the trial Court is to be observed. The State has also been directed to pay the victim Rs. 3 lacs.

4(B).3.5 Anil Shivaji Patil versus state of Maharashtra⁶⁶

A division bench comprising of B. R. Gavai and Sarang V. Kotwal JJ. decided a criminal appeal wherein the sentence of the appellant (Convict) was reduced from life imprisonment to eight years. The Appellant who threw acid on the victim was convicted for the offences punishable under section 326 and 341 IPC. According to the high court, the incident appeared to be an outcome of a love affair between the appellant and the victim. It appeared that both were in love with each other for a long time. However, when the appellant asked the victim for marriage, she refused. On such refusal the appellant become angry and threatened the victim. On the date of the incident when the victim was preceding towards her college the appellant threw acid on her face and Shoulder. The appellant was Convicted as stated above and sentenced to life imprisonment. In the High Court, the appellant confined his challenge to the quantum of punishment. The high court, considered the factual Matrix as mentioned here in above. It was further noted that during the pendency of the appeal, the matter had been amicably settled between the appellant and the victim. They had solemnized marriage with each other. Further, the victim was undergoing plastic surgery for which the expenses were being paid by the appellant not only this, but the appellant had also

⁶² (2015) 5 SCC 195

⁶³ (2015) 2 SCC 227

⁶⁴ (2015) 11 SCC 584

⁶⁵ (2015) 3 SCC 449

⁶⁶ 2018 SCC online Bom. 1408 decided on 27.6.2018

undertaken to donate skin for the surgical procedure. It was noted that the appellant had already undergone the sentence of more than eight years, which considering the nature of the factual background was found to be more than sufficient. The court held it to be just not necessary that the appellant and the victim be permitted to lead a peaceful life. Accordingly, while upholding his conviction the sentence awarded to the appellant was reduced to the period already undergone by him. The appeal was disposed of in above terms.

4(B).3.6 Death Penalty: Preeti Rathi's Case

Preeti, a nursing graduate from Delhi, had landed at Bandra terminus in Mumbai by Gareeb Rath Express where some unknown assailant threw acid on her face. The attacker patted on her shoulder from behind and as she turned, he threw acid on her face. No one could catch him despite the station being crowded and he succeeded in escaping. 23-year-old Preeti had stepped in Mumbai for the first time to join the Colaba Naval Hospital 'INS Ashwini' as a staff nurse, her first job. She passed away on June 2, after battling for her life for a month. Parts of her throat and lungs had been destroyed after she accidentally swallowed the acid sloshed across her face. Her statements later published in local newspapers, though full of grief at her current plight, also emphasized the centrality of the means of livelihood to a woman's life. Even when she was battling for her life, her first thought on gaining consciousness was about her job, safety of her younger sisters and concern for her parents' health. Before slipping into coma she scribbled on a paper not to shift her to a bigger hospital as it would be expensive. That was the last conversation she had with her father, it shows her concern for her middle class parents.⁶⁷

Ankur Panwar was arrested a year later. The accused, Ankur Panwar, a hotel management graduate, lives next door to the Rathi the Bhakra Beas Management Board (BBMB) Colony in New Delhi. Police officers claimed that he had confessed to have procured concentrated sulphuric acid from a workshop near his residence. He also told the police that he travelled to Mumbai in the same train as the Rathi family and attacked Preeti as she alighted at the Bandra

⁶⁷ Sudha Arora, "Acid Attacks and the rhetoric of love", The Tribune, Chandigarh, 9 (June 5, 2013).

Terminus station. After the attack “He did not go to his parents' home, but headed to the home of a cousin in Gurgaon. He lied to his parents that he had gone to Haridwar for a job interview at a hotel”, said Himanshu Roy, Joint Commissioner of Police, Crime. He added Panwar was employed at a hotel in Ahmedabad at the time of the arrest.⁶⁸

Panwar was allegedly spotted in the CCTV footage of the Nizamuddin Railway Station. The police said he was jealous of Ms Rathi's success and frustrated by his family goading him about being unemployed while lauding Ms Rathi as a success. So he allegedly took the same train to Mumbai that the Rathis were on, attacked the young woman, and then boarded another train departing Mumbai.⁶⁹

Ankur Panwar had thrown acid at Preeti because he was jealous of her as his father often compared him with her. Ankur, who has a diploma in catering from a Bhubaneswar college, still unemployed, while Preeti had just got a job at the Army Medical College in Colaba as a nurse. Out of jealousy and anger, Ankur decided to disfigure her and he attacked her in brutal manner by throwing acid on her. Apart from Rathi, her aunt Sunita and a passer-by too sustained injuries in the attack.⁷⁰

In the landmark judgement on September 9, 2016, special women's Court judge A.S. Shende sentenced 25-year-old Ankur Panwar to death for a fatal acid attack on 23-year-old nurse Preeti Rathi at Bandra terminus in May 2013. The Court also imposed a fine of Rs 5000 on Panwar and directed that it be given to parents of the victim. This is the first time that a convict in India has been sentenced to death for an acid attack. India is also only the second country, after Bangladesh, to have done so. Under Bangladesh's Acid Crime Suppression Act, attackers can be sentenced to death.⁷¹

⁶⁸Available at:<http://indianexpress.com/article/mumbai/cops-ciain-to-crack-murder-mystery-with-arrest-of-hotel-mgmt-graduate/>, (visited on March 25, 2017).

⁶⁹Available at :<http://vivwww.ndtv.com/india-news/man-convicted-of-acid-attack-on-nurse-preeti-rathi-sentenced-to-death-1456162>, (visited on March 25, 2017).

⁷⁰Available at:<http://timesofindia.indiatimes.com/city/mumbai/7-months-on-jealous-neighbour-held-in-Bandra-acid-attack-case/articleshow/28970361.cms>, (visited on January 20, 2014).

⁷¹Available at: <http://www.hindustantimes.com/mumbai-news/mumbai-nurse-acid-attack-killer-smiles-as-he-is-sentenced-to-death/story-7m8zRE1BykzhtOLdnfu5WN.html>, (visited on November 16, 2016.)

“A strong message needs to be sent to the miscreants of such crimes against women that such crimes shall not be tolerated”, recorded a special women's Court. “This crime is first of its kind in India”, Judge Anju S Shende, said on her last day at the City Civil and Sessions Court. “If the rising trend towards such crime is not checked at its inception, it will have monstrous effects on society, and soon it will spread widely”.⁷²

In a 150-page order, the Court said, “Without a shadow of doubt, this (crime) falls in the category of the rarest of the rare case. The incident is extremely gruesome, revolting, and horrifying. This Court is not in the knowledge of any case in which a crime of this nature has been committed and the accused is sentenced, till date. Therefore, deterrent punishment is the need of the hour. Being fully aware of the nature of the death penalty, the Court has reached the conclusion to award the death sentence to the accused”.⁷³

Drawing a parallel with rape, the Court said, “The height of brutality in acid attacks was more than those in cases of rape. Rape destroys the soul of the victim. But she can be kept in isolation, without disclosing her identity, and can be rehabilitated. But for an acid (attack) victim, she has to move around with a destroyed body.”

Preeti survived for 30 days because she did not know how she looked; she was blind. She had no idea of the effect of the attack on her face. Survivors of acid attacks look like aliens-their own children can get scared of them. This is the kind of effect acid has on the body, and a person cannot live without their body.⁷⁴ The Court then ordered, “The accused is to be hanged by neck, till he is dead, subject to the confirmation of the Bombay High Court.”

⁷²Available at: <http://www.thehindu.com/news/cities/mumbai/Court-cites-reasons-for-death-penalty-in-acid-attack-case/article9126630.ece>. (Visited on November 16, 2016.)

⁷³ Ibid.

⁷⁴Available at: <http://www.hindustantimes.com/mumbai-news/mumbai-nurse-acid-attack-killer-smiles-as-he-is-sentenced-to-death/story-7m8zRE1Bykzht0Ldnfu5WN.html>, (visited on March 25, 2017).

4(B).3.7 Campaign and Struggle against Acid Attacks on Women (CSAAAW) vs. Department of Women and Child Welfare, State of Karnataka & Ors.

In the CSAAAW PIL, the Court considered three appeals together for consideration on 22.08.2006: (1) the appeal (No. 1239/2004) filed by the accused as he was aggrieved by the judgment of 06.05.2005 sentencing him to 5 years and 3 months of imprisonment and fine; (2) the appeal (No.1065/2004) filed by the State as it was aggrieved by the acquittal of the accused for offence under Section 307 of IPC; and (3) the State's appeal (No. 1066/2004) under section 377 of Cr. P.C. praying for enhancement of the sentence under Section 326 of IPC, on the ground that the sentence was inadequate. The CSAAAW Court lamented that Trial Court had "committed grave and serious error in not taking into consideration the discrepancies in material particulars", "made an error in acquitting for the said charge of attempt to murder" and that the "punishment imposed namely rigorous imprisonment for 5 years" under Section 326 of IPC, in the "light of the grievous nature of injuries especially like losing both the eyesight, disintegration of the entire face of a beautiful girl, is very lenient one." The CSAAAW Court not only sentenced the accused, Joseph Rodrigues to imprisonment for life under Section 307 of the IPC, but also awarded a compensation of Rs. 2,00,000 in addition to the fine awarded by the Trial Court (Rs. 3,20,000).

4B.4 Commentary on Victim Compensation Schemes

The recent order by the Supreme Court in Laxmi vs. Union of India dated 16.04.2013, mandated all states to enact acid attack victim compensation schemes. While many states have enacted schemes in compliance, only the Haryana compensation scheme provides a realistic appraisal of the issues survivors face, whereas other states have not allocated sufficient funds for survivor welfare and full rehabilitation.

4B.4.1 Uttar Pradesh victim compensation scheme

The Uttar Pradesh victim compensation scheme was notified on the 9th of April 2014. As per the Ministry of Home Affairs, Uttar Pradesh, the purpose of

the victim compensation is to give immediate financial aid and Rehabilitation to the victims. The state legal services authority and the district legal services authority have the power and responsibility to decide and distribute compensations to the victims of those categories which have been duly notified. According to the procedure laid down in the scheme, a victim can directly approach DLSA/SLSA on their cases can be referred by the trial court or appeal court as the case may be. Under the scheme, there are 14 categories notified for award of compensation and the payment criteria have also been laid down. Following the guidelines of the Honorable Supreme Court in **Parivartan Kendra versus Union of India**, and multiple judgments of the Honorable High Court of Allahabad with the respect to the victims of acid attack and child sexual abuse under POCSO and incorporating the central victim compensation fund guidelines the state of Uttar Pradesh amended the victim compensation scheme on 7th June, 2016 to further protect the rights of the victims more robustly. Currently, the maximum limit for compensation for victim of corrosive substance i.e., acid attack is INR 5 lakhs under the Uttar Pradesh victim compensation scheme.

- **Rani Lakshmi Bai Mahila Evam Bal Samman kosh**

The state of Uttar Pradesh also has in place another scheme for award of compensation to victims of acid attack. The Rani Lakshmi Bai Mahila Evam Bal Samman kosh was a scheme launched by the state government in the financial year 2015-16 to provide Medical and educational help for women and girls under the Uttar Pradesh state women empowerment mission. One of the major objectives of the Kosh is, “to ensure monetary, medical relief, including reconstructive surgeries, to women/girl child who are victims of heinous crimes, as well as educational assistance to the victims and their minor children [emphasize mine]. The scheme was set up with a Corpus of INR 100 crores contributed by the State Government for its operation, with the provision to increase the fund as and when required in a financial year. One of the major contingents benefiting under the scheme are women victims of crime who are entitled to receive monetary compensation from the state government. Under the provisions of the Rani Lakshmi Bai Mahila Samman Kosh Rules, 2015, victims of crime under section 326 A of the Indian Penal Code are entitled to receive a minimum compensation of INR 3 lakhs and a maximum compensation of 10

lakhs, the latter being awarded to the children or parents of the victim in case of her death. Out of the allotted amount, the victim is entitled to receive INR 1 lakh within 15 days of the incident and the rest of the amount within 3 months of the incident. Additionally, the scheme also provides for free treatment for victims of acid attack at any state hospital, district hospital, primary health care centre and community health Care Centre in the state against the exchequer of the Kosh. The scheme lays down an internal referral process among medical Institution and bodies for this purpose.

The Bihar scheme offers a meager sum of Rs. 25,000 to survivors of acid attacks; Goa and Himachal Pradesh offer Rs. 50,000; Gujarat and Arunchal Pradesh offer Rs. 1,00,000; Uttar Pradesh offers Rs. 1,50,000; Jammu and Kashmir and Maharashtra schemes offer compensation to acid survivors between Rs. 2,00,000 to Rs. 3,00,000. These amounts would not cover even one corrective surgery, leave alone addressing the acid attack survivor's psychological trauma, economic insecurity and rehabilitation-related issues.

Most of the states that implement a victim compensation scheme tend to compensate between Rs. 1 and 3 lakhs in the case of loss of life. The Union Territory of Puducherry is at a high end of the current range in this regard, with a payment for loss of life between Rs. 3 and 5 lakhs. All the states with a victim compensation scheme take into consideration the physical trauma of the victim, and compensate according to the degree of the injury. The amount payable for permanent injury or injuries that render the victim at greater than 80% handicap, ranges between Rs. 50,000 to 300,000 with the Union Territory of Puducherry at the most generous end of the spectrum. The figures for injuries that result in a handicap of between 40% and 80%, as well as below 20%, also vary. These figures tend to be in the region of Rs. 50,000 and 30,000 respectively, as a national average. However, these numbers vary greatly from state to state. Most states also offer rehabilitation compensation of between Rs. 10,000 and 20,000, and many offer to cover the costs of immediate first-aid, medical benefits, or any other interim relief, as deemed fit.

Whereas most states offer a comprehensive system of compensation with regards to physical injury nearly all states lack compensation for the mental,

psychological and emotional trauma of the victim. Often the victim will need the professional assistance of a specialized social worker, for example, to help them with the social issues that they may face post-attack. Such assistance could extend to finding new housing and establishing new social networks if family and friends abandon or abuse them; assistance in relocating if there is a reasonable fear of reprisal from their attacker or his family (e.g., for filings FIR, testifying, seeking restitution or fines, speaking out publicly); assistance restarting education or occupational training; and assistance finding employment. As covered in the title on Social and Economic Consequences, it is pertinent to emphasize that such aid is required as it would be unreasonable to expect survivors who are physically and psychologically traumatized, often socially isolated, and who routinely face discrimination to do all of this on their own. The victim compensation schemes should regard the social and psychological aspects of the victims' requirements as highly as they regard the compensation for physical injury.

The most comprehensive and inclusive compensation scheme appears to be the Haryana Victim Compensation Scheme. The state of Haryana offers between Rs. 1 to 3 lakhs for the loss of life, between Rs. 50,000 to 2,00,000 for a loss of any limb or part of the body that causes greater than 80% disability as a result of acid attack. The scheme offers Rs. 1 lakh to be paid within 15 days of the attack and remaining Rs. 2 lakhs within 2 months. In case of the victim's death, the state will pay Rs. 5 lakhs to her legal heirs.

The state compensates between Rs. 25,000 to 1,00,000 in the case of a loss of any limb which renders a 50% disability, and Rs. 50,000 for mental agony to a woman or a child – thus recognizing the mental and psychological impacts of an acid attack, as well as the physical injury. Haryana also offers immediate first-aid facilities or medical benefits, available free of charge. Based on the information given in state government websites, information on victim compensation schemes is tabulated below.

Table 4(B).1 State-Wise Compensation Schemes

Name of State/UT	Name of the Scheme	Year of Inception of the Scheme	Amount of Compensation	Time Frame of Compensation Fund Release	Other Benefits
Andhra Pradesh	N.A.				
Arunachal Pradesh	Arunachal Pradesh victim Compensation Scheme	2012	• Acid Attack Rs. 1 Lakh • Loss of any limb or part of body resulting in 80% or above handicap Rs.50,000 • Loss of any limb or part of body resulting in 40% and blow 80% handicap Rs.20,000 • Loss of any limb or part of body resulting in blow 40% handicap Rs.10,000 • Loss of injury causing severe mental agony to women and child victim Rs.10,000	30 days and may be increased in extreme Situations	Free immediate medical aid on recommendation of the Deputy Commissioner of District Legal service Authority
Assam	N.A.				
Bihar	Bihar Victim Compensation Scheme	2011	• Loss of life Rs. 1,00,000 • Injuries after an acid attack Rs.25,000 • Loss of injury causing severe mental agony to women and child victims Rs.25,000 • Grievous Hurt as defined in Section 320 of the IPC 1860 Rs. 25,000	Within 2 months from the date of filing the complaint	Free immediate medical aid on recommendation of the Deputy Commissioner of District Legal service Authority
Chhattisgarh	N.A.				
Goa	Goa Victim Compensation scheme	2012	• In case of death of the sole earning member of the family where children are minor and / or unemployed Upto Rs. 2,00,000/- • Loss of any limb or part of the body resulting		Immediate first aid facility or medical benefits to be made available free of cost

			80% or above disability including acid attack ... Upto Rs. 50,000/- • Loss of any limb or part of the body resulting in 40% and below 80% disability including acid attack Upto Rs. 25,000/- • In case of death of non-earning Member Upto Rs. 25,000/- • Loss of any limb or part of the body resulting below 40% disability including acid attack ...Upto Rs.10,000/- • In case of injury causing, severe mental agony to women and child Upto Rs. 10,00,000/-		
Gujarat	Gujarat Victim Compensation scheme	2013	• Loss of Life 1,50,000 • Loss of any limb or part of body resulting 80% or above Handicap 1,00,000 • Loss of any limb or part of body resulting above 40% & below 80% Handicap Rs.50,000 • Rape 1,00,000 • Loss of any injury causing severe mental agony to women and child victim in case like Human Trafficking 25,000 • Permanent disfiguration of the head or face by acid. (In case of acid attack on a woman) 1,00,000 • Assault on women disfiguring her face or any part of body by acid-orany other weapon 50,000 • In case of sodomy 25,000 • Rehabilitation. 50,000	Within two months	Immediate first-aid facility or medical benefits to be made available free of coast
Haryana	Haryana Victim compensation Scheme	2013	• Loss of Life 1-3 lakhs • Loss of any limb or part of body (80%) including loss due to acid attack Rs.50,000 to 2,00,000	Within two months	Immediate first-aid facility or medical benefits to be made available free of coast

			• Loss of any limb or part of body (50%) including loss due to acid attack Rs.25,000 to 1,00,000 • Loss or any injury causing severe mental agony to women and child victims in case like Human Trafficking, Kidnapping and Molestation. 50,000		
Himachal Pradesh	Himachal Pradesh (Victim of Crime) Compensation Scheme, 2012	2012	• in case of death or disability equal to or more than 80% Rs.1,00,000/- • in case of acid attack Rs. 50,000/- • in case of loss of limb etc. where the permanent disablement is equal to or more than 40% but less than 80% and is certified by a Govt. Doctor or Doctor from the panel approved by the Government Rs.50,000/- • in case of grievous hurt, certified by a Govt. Doctor or Doctor from the panel approved by the Government Rs.25,000/- • in case of rape or unnatural offence, establishment in the Medico Legal Report Rs.50,000/- • in case of Human Trafficking Rs. 24,000/-	Within 60 days	Immediate interim aid facility or medical benefits to be made available free of cost
Jammu & Kashmir	Jammu & Kashmir Victim Compensation Scheme	2013	• Loss of life Rs. 1,00,000/- • Acid Victims Rs. 20,000/- • Rape Rs. 50,000/- • Rape of Minor or rape in Police custody 1,00,000/- • Loss of any limb or part of body resulting in 80% or above handicap Rs. 50,000/- • Loss of any limb or part of body resulting in 40% and below 80% handicap Rs. 20,000/- • Injury causing severe mental agony to women and child victims in case like Human	Within two months	Immediate first-aid facility or medical benefits to be made available free of cost or any other interim relief as it may deem fit

			Trafficking Rs. 20,000/-		
Jharkhand	Jharkhand Victim Compensation Scheme,	2012	• Loss of life 2 lakh • Loss of any limb of part of body resulting 80% or above handicap Rs. 50,000/- • Loss of any limb or part of body resulting 40% & below 80% handicap Rs.20,000/- • Rehabilitation Rs.20,000/- • Rape Rs. 20,000/- • Loss of any limb or any part of body resulting in below 40% handicap Rs.10,000/- • Loss of injury causing severe mental agony to women and child victims in case like Human trafficking Rs. 10,000/-. • Simple Loss or injury to Child victim Rs. 10,000/-	Within two months	
Karnataka	Karnataka Victim Compensation Scheme	2011	• Loss of life 2 lakh • Loss of any limb of part of body resulting 80% or above handicap Rs. 1,00,000/- • Loss of any limb or part of body resulting 40% & below 80% handicap Rs.50,000/- • Loss of any limb or any part of body resulting in below 40% handicap Rs.20,000/- • Grievous Injuries Rs. 10,000/- • Rehabilitation Rs.20,000/-	Within two months	Immediate first-aid facility or medical benefits to be made available free of coast
Kerala	Kerala Victim Compensation Scheme	2017	• Death Maximum compensation upto Rs. 2 lakhs • Culpable homicide not amounting to murder Maximum compensation upto Rs. 1.5 lakhs • Causing death by negligence Maximum compensation upto Rs. 2 lakhs • Dowry related violence Maximum compensation upto Rs. 2 lakhs • Permanent Disability (80% or more) Maximum	Within two months	Immediate first-aid facility or medical benefits to be made available free of coast

			compensation upto Rs. 2 lakhs • Partial Disability (40% to 80%) Maximum compensation upto Rs. 1 lakh • Burns affecting greater than 25% of the body Maximum compensation upto Rs. 2 lakhs • Burns affecting less than 25% of the body Maximum compensation upto Rs. 2,00,000/- • Rape Maximum compensation upto Rs. 3 lakhs • Sexual assault Maximum compensation upto Rs. 50,000 • Acid Attack (Disfigurement of greater than 40%) Maximum compensation upto Rs. 3 lakhs • Acid Attack- (Disfigurement of less than 40%) Maximum compensation upto Rs. 1 lakh • Rehabilitation (in addition to above) Maximum compensation upto Rs. 1 lakh		
Madhya Pradesh	Madhya Pradesh Victim Compensation Scheme	2015	• Loss of life Maximum compensation upto Rs. 2.0 lacks to 4 lacks • Permanent disability being 100% Maximum compensation upto Rs. 1.50 lacks to 3 lacks • Permanent disability being more than 40% Maximum compensation upto Rs. 1 lacks to 2 lacks • Gang rape Maximum compensation upto Rs. 3 lacks • Acid attack leading to disfigurement of more than 40% Maximum compensation upto Rs. 3 lacks out of which Rs. 1 lakh to be paid within 15 days of intimidation date and balance amount maximum Rs. 2 lakh within 2 months • Acid attack leading to disfigurement of less than 40% Maximum compensation upto Rs. 1.50 lacks out of which Rs. 50,000 to be paid	within 2 months	free medical treatment in government hospital

			within 15 days of intimidation date and balance amount within 2 months		
Maharashtra	Maharashtra Victim Compensation Scheme	2014	• Loss of Life Maximum compensation upto Rs. 2.0 lacks • Permanent Disability Maximum compensation upto Rs. 0.50 lacks • Acid Attack. Maximum compensation upto Rs. 3.00 lacks	Within 2 months	
Manipur	Manipur Victim Compensation Scheme	2011	• Loss of life Rs.1,00,000 • Loss of any limb of part of body resulting in 80% or above handicap Rs. 50,000/- • Rehabilitation Rs.20,000/- • Acid Attack Rs. 50,000/- • Rape Rs. 20,000/- • Loss of any limb or any part of body resulting in below 40% handicap Rs.10,000/- • Loss of injury causing severe mental agony to women and child victims in case like Human trafficking Rs. 10,000/-.	Within 2 months	
Meghalaya	Meghalaya Victim Compensation Scheme	2011	• Loss of injury causing severe mental agony to women and child victims Rs. 25,000/-.	Within 2 months	Immediate interim aid facility or medical benefits to be made available free of cost
Mizoram	Mizoram Victims of Crime Compensation Scheme	2011	• Death/Permanent disability Rs.1,00,000/- • Loss of two limbs or two eyes or two ears : Rs. 1,00,000/- • Loss of one limb or one eye or one ear :Rs. 50,000/- • Permanent loss/damage of part of the body :Rs. 30,000/- • In case of hospitalization due to injury caused by a particular incident of crime. Lump sum payment of Rs. 5,000/- subject to a maximum	Within 2 months	Immediate interim aid facility or medical benefits to be made available free of cost

			of Rs. 20,000/- :Rs. 20,000/- • Rape :Rs. 50,000/- • Loss or injury causing severe mental agony to women and child victim in case like human trafficking, kidnapping, etc :Rs. 20,000/-		
Nagaland	Nagaland Victim Compensation Scheme	2013	• Loss of life 2 lakh • Loss of any limb of part of body resulting 80% or above handicap Rs. 50,000/- • Loss of any limb or part of body resulting 40% & below 80% handicap Rs.75,000/- • Rehabilitation Rs.50,000/- • Rape Rs. 50,000/- • Loss of any limb or any part of body resulting in below 40% handicap Rs.75,000/- • Loss of injury causing severe mental agony to women and child victims in case like Human trafficking Rs. 1,00,000/-. • Simple Loss or injury to Child victim Rs. 20,000/-	Within 2 months	Immediate interim aid facility or medical benefits to be made available free of coast
Odisha	The Odisha Victim Compensation Scheme	2017	• Death Maximum compensation upto Rs. 2 lakhs • Rape Maximum compensation upto Rs. 3 lakhs • sexual assault (excluding rape)Maximum compensation upto Rs. 50,000 • Rehabilitation of victim of human trafficking Maximum compensation upto Rs. 1 lakh • Permanent Disability (80% or more) Maximum compensation upto Rs. 2 lakhs • Partial Disability (40% to 80%) Maximum compensation upto Rs. 1 lakh • Burns affecting greater than 25% of the body(excluding acid attack) Maximum compensation upto Rs. 2 lakhs	Within 2 months	Immediate interim aid facility or medical benefits to be made available free of coast

			• Acid Attack Maximum compensation upto Rs. 3 lakhs • Loss of injury causing severe mental agony to women and child victims in case like Human trafficking Rs. 10,000/-.		
Punjab	Haryana Victim Compensation Scheme	2013	• Loss of Life 1-3 lakhs • Loss of any limb or part of body (80%) including loss due to acid attack Rs.50,000 to 2,00,000 • Loss of any limb or part of body (50%) including loss due to acid attack Rs.25,000 to 1,00,000 • Loss or any injury causing severe mental agony to women and child victims in case like Human Trafficking, Kidnapping and Molestation. 50,000	Within 2 months	Immediate first-aid facility or medical benefits to be made available free of coast
Rajasthan	Rajasthan Victim Compensation Scheme	2011	• Loss of life 2 lakh • Loss of any limb of part of body resulting 80% or above handicap Rs. 1,00,000/- • Loss of any limb or part of body resulting 40% & below 80% handicap Rs.50,000/- • Rehabilitation Rs.1,00,000/- • Rape Rs. 2,00,000/- • Loss of any limb or any part of body resulting in below 40% handicap Rs.25,000/- • Loss of injury causing severe mental agony to women and child victims in case like Human trafficking Rs. 25,000/-. • Simple Loss or injury to Child victim Rs. 20,000/- • Permanent disfiguration of the head or face by acid Rs. 2,00,000/-	Within 2 months	Immediate interim aid facility or medical benefits to be made available free of coast
Sikkim	Sikkim Compensation	2011	• Loss of life 2 lakh		

	to Victims or his Dependents Scheme		• Loss of any limb of part of body resulting 80% or above handicap Rs. 1,00,000/- • Physical disfigurement due to attack by acid or other weapon up to Rs. 3,00,000 • Ex-gratia for loss of life up to Rs. 2,00,000		
Tamil	Tamil Victim Compensation Scheme	2013	• Loss of Life (due to acid attack) up to Rs. 3,00,000 • Loss of any limb of part of body (more than 80%) up to Rs. 2,00,000/- • Loss of any limb or part of body (more than 50%) up to handicap Rs. 1,00,000/- • Loss or injury causing severe mental agony to women and children up to Rs. 1,00,000	Within 2 months	State or the District Legal Service Authority shall award an interim relief of Rs. 3 lakhs to the acid attack victim under sub-section (6) of Section 357 (A) of the code, as the after care and rehabilitation cost
Tripura	Tripura Victim Compensation Scheme	2012	• Loss of Life: Subject a maximum of Rs.1,00,000 • Loss of Limb/ Permanent Disability in Acid Attack: Rs.75,000/- • Loss of Limb/Permanent Disability in cases other than maximum of Rs.50,000/- • Rape: Subject a maximum of Rs.50,000/- of which Rs.5,000/- shall be paid after preliminary verification of the complaint and the balance amount shall be sanctioned on filing of charge sheet. • Loss or injury causing severe mental agony in Child abuse/Human trafficking cases: Subject a maximum of Rs.20,000/- • Grievous Hurt or Loss of property in communal Violence/riot: Subject a maximum of Rs.20,000	Within 2 months	Immediate first-aid facility or medical benefits to be made available free of cost
Uttar Pradesh	Uttar Pradesh Victim Compensation Scheme	2014	• Rape Rs. 2,00,000/- • Loss or injury causing severe mental agony to the victim of the crime Rs. 1,00,000/-		

			• Victim of corrosive substance i.e. acid attack etc. Rs: 3,00,000/- • Death (Non-earning member) Rs. 1,50,000/- • Death (Earning member) Rs. 2,00,000/- • Victim of Human Trafficking Rs. 2,00,000/-		
Uttarakhand	Uttarakhand Victim from Crime Assistance Scheme	2013	• Loss of life Rs.2,00,000 • Loss of any limb of part of body resulting in 80% or above handicap Rs. 1,00,000/- • Rehabilitation Rs.1,00,000/- • Injury caused by acid attack (a) If face/ head injured Rs. 1,50,000/- (b) If other organs injured Rs. 30,000/- • Rape of miner Rs. 2,50,000/- • Loss of any limb or any part of body resulting in below 40% handicap Rs.10,000/- • Loss of any limb or any part of body resulting in above 40% and below 80% handicap Rs. 50,000/- • Loss of injury causing severe mental agony to women and child victims in case like Human trafficking Rs. 1,00,000/-. • Simple Loss or injury to Child victim Rs. 10,000/-	Within 2 months	Immediate first-aid facility or medical benefits to be made available free of cost
West Bengal	West Bengal Victim Compensation Scheme	2012	• Loss of life Rs.2,00,000 • Loss of any limb of part of body resulting in 80% or above handicap Rs. 50,000/- • Rehabilitation Rs. 20,000/- • Loss of any limb or any part of body resulting in below 40% handicap Rs.10,000/- • Loss of any limb or any part of body resulting in above 40% and below 80% handicap Rs. 20,000/- • Simple Loss or injury to Child victim Rs.	Within six months	Immediate first-aid facility or medical treatment to be made available free of cost

			10,000/-		
A & N Island	N.A.				
Chandigarh	Chandigarh Victim Assistance Scheme	2012	• Loss of life Rs.2 lacs to 3 lacs • Victims of acid attack a. In case of disfigurement of face; 2 lacs to 3 lacs b. Other cases of injury Rs. 50,000/- • Loss of any limb of part of body resulting in 80% or above handicap Rs.2 lacs to 3 lacs • Rehabilitation Rs. 20,000/- • Loss of any limb or any part of body resulting in above 20% and below 40% handicap Rs.60000 to 1 lacs • Loss of any limb or any part of body resulting in below 20% permanent disability Rs.50000 • Loss of any limb or any part of body resulting in above 40% and below 80% handicap Rs.1 lacs to 1.50 lacs • Simple Loss or injury to Child victim Rs. 10,000/-	Within 60 days	Immediate first-aid facility or medical treatment to be made available free of cost
Dadra & Nagar Haveli	Dadra & Nagar Haveli Victim Assistance Scheme	2012	• Loss of life Rs.3 lacs to 5 lacs • Victims of acid attack a. In case of disfigurement of face Rs 2 lacs to 3 lacs b. Other cases of injury Rs. 50,000/- • Loss of any limb of part of body resulting in 80% or above handicap Rs.2 lacs to 3 lacs • Rehabilitation Rs. 20,000/- • Rape Rs 2 lacs to 3 lacs • Loss of any limb or any part of body resulting in above 20% and below 40% permanent disability Rs.60000 to 1 lacs • Loss of any limb or any part of body resulting	75% of the compensation shall be put in a fixed deposit for a minimum period, of three years and the remaining 25% shall be available for the utilization and initial expenses by the victim. In the case of a minor, 80% of the amount of Assistance so awarded shall be deposited in the	Immediate first-aid facility or medical treatment to be made available free of cost

			in below 20% permanent disability Rs.50000 • Loss of any limb or any part of body resulting in above 40% and blow 80% handicap Rs.1 lacs to 1.50 lacs • Simple Loss or injury to Child victim Rs. 10,000/-	fixed deposit account and shall be withdrawn only on attainment of the age of majority, but not before three years of the deposit	
Daman & Diu	Daman & Diu Victim Assistance Scheme	2012	As mentioned above	As mentioned above	As mentioned above
Lakshadweep	Lakshadweep Victim Assistance Scheme	2012	As mentioned above	As mentioned above	As mentioned above
Delhi NCT	Delhi Victim Compensation Scheme	2011	As mentioned above	As mentioned above	As mentioned above
Puducherry	Puducherry Victim Assistance Scheme	2012	As mentioned above	As mentioned above	As mentioned above

Table 4(B).2 Implementation of victim compensation scheme in States/UTs under Section 357 A of Cr.P.C. for the period April 2017 to March 2018⁷⁵:

NATIONAL LEGAL SERVICES AUTHORITY							
IMPLEMENTATION OF VICTIM COMPENSATION SCHEME U/S 357-A CR.PC (APRIL, 2017 TO MARCH, 2018)							
S.NO	SLSA	Applications received directly by Legal Service Institutions (A)	Applications / orders marked / directed by any Court (B)	Applications received including Court Orders (A+B)	Applications Decided	Applications Pending	Compensation Awarded in (Rs.)
1	Andaman & Nicobar Islands	3	0	3	1	0	50000
2	Andhra Pradesh	18	41	59	37	22	8369000
3	Arunachal Pradesh	74	10	84	20	0	2450000
4	Assam	80	380	460	279	511	21468800
5	Bihar	595	85	680	303	26	23252374
6	Chhattisgarh	546	466	1012	415	412	29404024
7	Dadra & Nagar Haveli	0	2	2	0	0	550000
8	Daman & Diu	0	1	1	1	0	400000
9	Delhi	761	1695	2456	1832	1302	472037967
10	Goa	0	0	0	0	0	0
11	Gujarat	176	139	315	147	182	29818680
12	Haryana	34	228	262	255	81	49406020
13	Himachal Pradesh	13	24	37	12	7	1200000
14	Jammu & Kashmir	1	7	8	1	12	25000
15	Jharkhand	782	243	1025	680	524	37935400
16	Karnataka	2156	651	2807	1099	1187	71606500
17	Kerala	56	287	343	145	83	30605000

⁷⁵Available at <https://nalsa.gov.in> visited on 10/12/2019

S.NO	SLSA	Applications received directly by Legal Service Institutions (A)	Applications / orders marked / directed by any Court (B)	Applications received including Court Orders (A+B)	Applications Decided	Applications Pending	Compensation Awarded in (Rs.)
18	Lakshadweep	0	0	0	0	0	0
19	Madhya Pradesh	457	251	708	176	311	17120500
20	Maharashtra	93	60	153	81	160	7855000
21	Manipur	0	2	2	1	8	30000
22	Meghalaya	482	17	499	305	12	3180000
23	Mizoram	270	11	281	99	46	21395000
24	Nagaland	0	4	4	15	4	2300000
25	Odisha	1138	278	1416	694	1085	85835216
26	Puducherry	2	0	2	1	0	0
27	Punjab	271	79	350	243	290	25635292
28	Rajasthan	864	550	1414	1288	746	197349000
29	Sikkim	0	1	1	0	4	0
30	Tamil Nadu	682	162	844	211	526	27219000
31	Telengana	19	13	32	31	9	2700000
32	Tripura	61	20	81	68	53	3515000
33	U. T. Chandigarh	7	4	11	28	2	12900000
34	Uttar Pradesh	219	0	219	219	0	16860000
35	Uttarakhand	18	27	45	54	15	6870000
36	West Bengal	110	129	239	120	17	25275000
	Grand Total	9988	5867	15855	8861	7637	1234617773

As per the analysis of the implementation of victim compensation scheme under Section 357 A of Cr.P.C. for the period April 2017 to March 2018 the data available over the website of NLSA appended as annexure..... contemplates that highest compensation has been awarded by Delhi to the acid attack survivors which comes out to Rs. 472037967 and the least has been awarded by state of Jammu & Kashmir which is merely Rs. 25000. If we talk about the area of research that is Uttar Pradesh the total compensation awarded during the aforesaid period is 16860000, the maximum no. of applications received for the acid attack by the legal services institutions independently is in Karnataka 2156, the least no of applications received by legal services institutions is received by the State of Jammu & Kashmir that is only 1.

Application or directions given by court with regarded to acid attack victims is maximum in case of Delhi which is 1695 and it shows the efficiency and activeness on the part of Delhi judiciary for being sensitive enough for this humane issue. Karnataka is again on the top for receiving applications for both from the legal services institutions and by the orders and directions of the court that brings it to the digit that is 2807. Talking about specifically to Uttar Pradesh which is the area for research with respect to the problem of acid attack applications, orders, directions issued by the Court in Uttar Pradesh falls to be 0 which definitely creates a doubt over the sensitivity of authority to see the larger picture with respect to acid attack and the plight of the survivors, but interestingly the applications decided overall for the aforesaid period by the state of Uttar Pradesh is 219 that means no pendency with regard to the applications for the aforesaid period. This should be appreciated being a comparatively larger state with regard to demography still Uttar Pradesh has maintained its efficacy in disposal of the applications for deciding the compensation awarded, which is 16860000.

4B.5 Contribution of Supreme Court in Uniform Compensation Policy

In the case **Tekan Alias Tekram Vs State Of Madhya Pradesh on Feb 11, 2016** Aggrieved by the judgment and order dated 16th January, 2014 passed by the High Court of Chhattisgarh in Criminal Appeal No. 2554 of 1997 affirming the judgment dated 29.11.1997 passed by the Sixth Additional Sessions Judge,

Durg, in Sessions Trial No. 342 of 1996, whereby the appellant has been convicted under Section 376 IPC and sentenced to 7 years R.I., the accused-appellant has preferred this appeal challenging the conviction and sentence.

M.Y. Eqbal, J., Arun Mishra, J. Condensed write-up by Dr. T. Rajendran Case. This is a landmark case of a rape victim that was instrumental for the Supreme Court to direct all the State and Union Territories to frame **a uniform compensation policy** on the model of the State of Goa to the handicapped-rape victims throughout the country, citing differential treatment in different states. Iswari, a blind and illiterate girl whose mother entered into another marriage and lived elsewhere, was living with her father and three brothers in Nandini Kundini, a village in Chhattisgarh (in undivided Madhya Pradesh formerly). One Tikendra, a class-mate of a brother used to visit the home of Iswari and befriended her. Promising her to marry and keep her, Tikendra exploited her several times through sexual intercourse for a continuous period, though ‘she tried to avoid it’ initially before yielding to the desires of the accused-appellant Tikendra. Iswari became pregnant and urged Tikendra to marry her but he refused. The victim’s father came to know about the incident and went to village panchayat. The accused accepted the crime but refused to marry the victim, leaving her in the lurch. Hence, the matter was taken to the court of law.

The decision of the Trial Court-The Trial Court convicted and sentenced the accused under the section 376 of the IPC for seven-year rigorous imprisonment after examining all the pieces of evidence including the doctor who examined the victim. Iswari, despite her blindness, narrated how the sexual exploitation started and continuously taking place on the assurance of the accused of ‘keeping her’.

The decision of the High Court-The High Court admitted the criminal appeal and examined the facts and evidence put forth by the prosecution and ‘affirmed the judgment of conviction’ passed by the trial court.

Observations of the Supreme Court- After hearing the arguments of the counsels of two sides and examining the findings of the two courts carefully, the court delivered the judgment with the following observations:

1. The prosecution has proved the guilt beyond any reasonable doubt without any infirmity or illegality.
2. Consequently, the question of compensation has arisen and to be decided on the basis of the compensation plan of the state government, the financial status of the victim, her brothers, and the accused-appellant.
3. It is ascertained that there is no uniform victim compensation plan through the country, as the states themselves decide the quantum of compensation from Rs.20,000 to 10,00,000 under section 357A of the IPC. In addition to this, the handicapped victims like Iswari are entitled to a special treatment for a payment of 3,00,000 under the scheme, finalized by the National Commission on Women (NCW) on the directive of the High Court of Delhi.
4. It was ascertained that the financial status of the victim was appalling as she remains unmarried and lives alone in a 'kutcha' house and with the help of the government's assistance of Rs.300/- meant for any handicapped person in the state and subsidized supply of 35 kilos of rice Rupee one per kilo through BPL card. The financial status of the brothers also not good as they are coolies.
5. The accused-appellant lives in a 'pucca' house with her mother and wife, holding two acres of land, his ancestral inheritance.
6. On payment of compensation, the state government came forward to allow the victim to stay in a government home called 'Nari Niketan' which costs Rs.8000 to Rs.10,000 per month with the continuous payment of the pension of Rs.300/- per month.

The Supreme Court of India in **Nipun Saxena v. Union of India, WP (C) No. 565 of 2012** had opined that "it would be appropriate if NALSA sets up a Committee of about 4 or 5 persons who can prepare Model Rules for Victim Compensation for sexual offences and **acid attacks** taking into account the submissions made by the learned Amicus. The learned Amicus, as well as the learned Solicitor General, have offered to assist the Committee as and when required. The Chairperson or the nominee of the Chairperson of the National Commission for Women should be associated with the Committee." Further, the committee had finalized the "**Compensation Scheme for Women**

Victims/Survivors of Sexual Assault/other Crimes” and submitted the same before the Supreme Court on 24-04-2018.

The Division Bench comprising of **Madan B Lokur and Deepak Gupta JJ.**, while delivering an order stated that the scheme proposed by National Legal Services Authority (NALSA) for compensating the victims of sexual assault, **acid attack** and other crimes require modification to “some extent”.

The Supreme Court (SC) on May 11, 2018 approved the '**Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes-2018**', a uniform compensation scheme for victims of sexual assault and **acid attacks**. The scheme was prepared by the National Legal Services Authority (NALSA) in consultation with the Union Government. A bench of **Justice Madan B Lokur and Justice Deepak Gupta** ordered that the scheme should be implemented in all states and union territories.

4(B).6 Compensation Scheme Prepared by NALSA Approved by Supreme Court

Table 4(B).3. Showing compensation slabs for victims of sexual assault, gang rape and acid attacks

Compensation slabs for victims of sexual assault, gang rape and acid attacks		
Cases	Minimum Compensation	Maximum Compensation
Victims of sexual assault	Rs 4 lakh	Rs 7 lakh
Loss of life or gang rape	Rs 5 lakh	Rs 10 lakh
Burnings or acid attacks: Total disfigurement	Rs 7 lakh	Rs 8 lakh
Burnings or acid attacks: 50 percent burns	Rs 5 lakh	Rs 8 lakh
Loss of limb or body part resulting in 80 percent permanent disability	Rs 2 lakh	Rs 2 lakh
Cases of grievous physical injury	Rs 2 lakh	Rs 2 lakh
Pregnancy on account of rape	Rs 3 lakh	Rs 4 lakh
Miscarriage or loss of fertility due to assaults	Rs 2 lakh	Rs 3 lakh

i. Highlights of the compensation scheme-

- The scheme defines the compensation slabs for victims of sexual assault, acid attacks and even for the loss of a fetus.
- It empowers the legal services authority to take suo motu cognisance of cases of sexual assault and acid attacks to grant interim relief after preliminary verification.
- Under the scheme, a compensation fund will be set up that will be managed by State Legal Services Authority (SLSA).
- The compensation fund will also set up a portal for victims to apply online for compensation.

ii. Status of Nirbhaya Fund

- The bench was also told that though Centre had cleared Rs 3500 crore fund under the Nirbhaya Scheme, but only nine states have received the funds so far.
- There are various cases in which the victims have still not been paid with the compensation, which has been pending since 2013.
- To this, the apex court replied that it would deal with the issue of the Nirbhaya Fund in July 2018.
- The Union Government created the Nirbhaya Fund in 2013 to support state governments and NGOs working for women's safety.
- The fund was created following the Nirbhaya gang-rape case in Delhi in December 2012.

The report was submitted by the NALSA Director Surinder S Rathi in the apex court, directing the Union Ministry of Women and Child Development and the Principal Secretaries of all states to undertake steps to ensure implementation of the scheme as soon as possible. Earlier, NALSA had also informed the apex court that only 5 to 10 percent of sexual assault victims across the country were able to get compensation in various states till now.

Before 2014, the Courts have not given satisfactory punishment to the offenders or compensation to the victims. But after 2014, the Courts have started

to give enhanced punishments and compensation. The Supreme Court has given various directions and strong decisions in latest cases. The most important directions are to regulate the sale of acids, all the public and private hospitals to provide first aid treatment free of cost to the survivor, compensation, include acid attack survivors in disability list etc. Post-Laxmi's case, the Courts have given stricter punishments to the offenders and good amount of compensation to the victims as relief. In the landmark case of Preeti Rathi the Court has awarded death penalty to the offenders. It is an important decision against such a heinous crime. Therefore, to curb acid attacks on women harsh punishment should be given to the offenders.

Chapter - 5

PROTECTION FOR THE ACID VIOLENCE AGAINST WOMEN UNDER INTERNATIONAL AND NATIONAL LAW

“Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women.”¹

There is a wide spread violence against women around the world, based on considerations of their sex alone. There is also a high degree of official and social tolerance of violence against women.² Violence can be more easily carried out against women because of their lower social, economic and legal status. Gender base violence is endemic worldwide, cutting across age, marital status, religion, class, race, and thus poses human rights violation and huge health problems. It includes acid attack violence, child marriage, honor killings, forced abortion, female genital mutilation, forced use of contraceptives, pre-natal sex selection, sexual harassment, rape, stalking, enforced sterilization of pregnancy, girl trafficking, forced prostitution, heterosexual and same sex domestic violence and enslavement of women.³ The 1993 Vienna World Conference on Human Rights officially acknowledged that all forms of violence against women are human rights violations and that States have a due diligence obligation to prevent such violence from occurring, to protect victims, to punish perpetrators, and to provide compensation to those who have suffered from it. Since then, the silence surrounding violence has been broken, and the diverse forms of abuse to which women are subjected have gained greater visibility and public attention.

¹The United Nations Declaration on the Elimination of Violence against Women, General Assembly Resolution, December 1993.

²Jane Roberts Chapman, *Violence against Women as a violation of Human Rights*, Available on <http://www.jstor.org/stable/29766541>(accessed on 19.08.2014)

³Jane Welsh, *It was like burning in hell*. A comparative study of Acid Attack, Department of Anthropology

Bangladesh, India, and Cambodia have ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁴ Gender based violence, which is violence that is directed against a woman because she is a woman or that affects women disproportionately, is a form of discrimination prohibited by CEDAW.⁵ Gender-based violence reflects and perpetuates gender inequality and discrimination.

Acid violence is gender-based violence because it impacts women disproportionately, although it is also reprehensible when acid violence occurs against men and boys. Presented study **focuses here especially on acid violence against women**. Acid attack, more formally known as **vitriolage**, is an act of intimate terrorism that involves the premeditated throwing of sulfuric, nitric, or hydrochloric acid onto another with the main intention of disfigurement. Acid violence reflects gender inequality and discrimination in society. Often acid attacks are perpetrated against women because they transgress gender norms that relegate women to subordinate positions. Indeed, a significant portion of attacks in India and Bangladesh occur when a woman exercises decision-making power by rejecting a suitor's marriage or love proposal. Acid attacks, like other forms of violence against women, are not random or natural phenomena. Rather, they are social phenomena deeply embedded in a gender order that has historically privileged patriarchal control over women and justified the use of violence to "keep women in their places." In many countries, women are victims of acid attacks when they allegedly or actually transgress hegemonic gender norms and roles that discriminate against women and keep them in subordinated positions. This Report, utilizing an international human rights framework, demonstrates that acid violence is a form of gender-based violence and discrimination prohibited

⁴ Convention on the Elimination of All Forms of Discrimination Against Women, *adopted* Dec. 18, 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46 at 193, U.N. Doc. A/34/46 (1979) [hereinafter CEDAW]. CEDAW was ratified by Bangladesh on Nov. 6, 1984, by India on July 9, 1993, and by Cambodia on Oct. 15, 1992. Available at United Nations Treaty Collection Databases, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidsg_no=IV-8&chapter=4&lang=en#1 (last visited Jan. 2, 2011).

⁵ *Ibid* at Article 1; Comm. on the Elimination of Discrimination Against Women (CEDAW Committee), *General Recommendation No. 19 – Violence Against Women*, 7, 11th Sess., U.N. Doc. A/47/38 (Jan. 29, 1992) [hereinafter CEDAW Committee *General Recommendation No. 19 – Violence Against Women*].

under international law, including the “Women’s Bill of Rights,” *i.e.*, the Convention on the Elimination of All Forms of Discrimination Against Women. Acid is easily and cheaply available, and access to justice eludes many victims in countries, such as Bangladesh, India, and Cambodia, where acid attacks are prevalent. Bangladesh is the only country that has adopted specific laws criminalizing acid violence and requiring business users of acid to obtain licenses. Full and effective implementation of the law, however, is still needed. Although Cambodia has proposed such legislation, it has not yet adopted it. However, India has rejected the need for additional laws to curb the easy availability of acid. The important role that non-state actors, particularly those in the private sector, can play in ending human rights abuses is increasingly recognized by the international community. The U.N. Special Representative on business and human rights, John Ruggie, incorporated due diligence standards into his proposed framework for delineating the obligations of businesses to minimize the negative human rights impacts of their activities. Violence against women through Acid not only presents a threat to the human rights of individual women, but also impoverishes the society that tolerates it and delegitimizes the state that overlooks it. Advocates and policymakers alike can use this comparative analysis as a tool for achieving meaningful legal and policy reform with the goal of ending this horrific form of gender-based violence and discrimination. The acid violence is a form of discrimination prohibited by international human rights law, as further described in this Chapter, States have an obligation to act with due diligence to prevent and adequately respond to acid attacks.

5.1 Criminalization of Acid Attacks under National law

5.1.1 Constitutional Provisions

Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.⁶

Article 14 is not mere formal equality; it also encompasses substantive equality. This means that equality cannot simply exist on paper. The State has to take positive action including special measures to ensure equality. As women in

⁶Constitution of India (1950) Article 14

India are disproportionately the victims of acid attacks, and acid attacks largely constitute gendered violence, women require special protection from acid violence under law.

Article 21: No person shall be deprived of his life or personal liberty except according to procedure established by law.⁷

The Supreme Court in a catena of judgments has recognized that the right to life includes the right to be free from inhuman and degrading treatment. As pronounced in **Francis Coralie Mullin Vs. Union Territory of Delhi & Ors [1981 SCR (2) 516]**, the Supreme Court held as under: "It is implicit in Article 21 the right to protection against torture or cruel, inhuman or degrading treatment which is enunciated in Article 5 of the Universal Declaration of Human Rights and guaranteed by Article 7 of the International Covenant on Civil and Political Rights (ICCPR)." The Supreme Court has held that Article 21 includes the right to health and the right to health services.

5.1.2 Statutory Provisions

The Indian Penal Code was amended by the Criminal Law (Amendment) Act, 2013, to include the offence of acid attack within its ambit. Before the amendment, the laws governing acid attack included:

Section 320 – Grievous hurt: Acid attacks are considered grievous hurt as any permanent disfigurement, disability, or destruction of a body part is included in this section.⁸

Section 325 — The punishment for voluntarily causing grievous hurt is a maximum of seven years. No minimum punishment is proscribed.⁹

Section 326 — Voluntarily causing grievous hurt through a dangerous weapon or another means: A "corrosive substance" is specified as being a dangerous means, hence acid attacks will be covered.¹⁰

⁷ Ibid, Article 21

⁸Sec. 320, Indian penal code, 1860 (Act No. 45, 1860)

⁹Ibid, Sec. 325

¹⁰Ibid Sec. 326

The punishment under this Section is for a maximum period of life imprisonment, or a period up to ten years. There is no minimum punishment prescribed.

The Criminal Law (Amendment) Act, 2013, made the following changes:

Section 100 — When the right to private defence of the body extends to causing death: An act of throwing acid or administering acid, or an attempt to throw or administer acid which may reasonably causes the apprehension that grievous hurt will otherwise be the consequence of such an attack.¹¹

Thus acid attacks have been included under the list of grievous crimes under which the right to private defence extends to causing death. This means that an acid attack is so grave that a survivor may be justified in killing the perpetrator to defend herself from the attack.

Section 326A — Whoever causes permanent or partial damage, deformity, bums, maims, disfigures or disables any part or parts of the body of a person with the intention or knowing that it is likely to cause such injury or hurt, shall be punished with either simple or rigorous imprisonment for a term of at least 10 years, which may extend to imprisonment for life, and a fine. The fine shall be paid to the victim, and shall be just and reasonable to meet the medical expenses of the victim.¹²

Section 326B — Attempting to throw or administer acid with the intention of causing permanent or partial damage, deformity, bums, maim, disfigure, disable, grievous hurt shall be imprisoned with either simple or rigorous imprisonment for at least five years, up to seven rats, and a fine.¹³ **Acid includes** a, substance of acidic, corrosive or burning character that is capable of causing bodily injury which leads to scars, disfigurement, temporary or permanent disability.¹⁴

For the purposes of both these sections, the damage or deformity need not have to be irreversible.

¹¹Sec. 100, Criminal Law Amendment Act ,2013 (Act No.13, 2013)

¹²Sec. 326 A Criminal Law Amendment Act ,2013 (Act No.13, 2013)

¹³Ibid, Sec. 326 B

¹⁴Ibid, Sec. 326 B Explanation-1, Explanation-2

Section 166A — A public servant who refuses to record a, information in relation to an offence under Section 326 A and 326 B (as well as some other sections), shall be imprisoned with rigorous imprisonment for a term of at least six months which may extend up to two years, and be liable to pay a fine.¹⁵

Section 166B — Whoever is in charge of any, hospital, whether public or private, run by the Central or State Government, a local body or a, person, and who contravenes Section 357A of the Code of Criminal Procedure, shall be imprisoned for a term which may extend to one year, or with fine, or both. Section 357A governs payment of fines to victims of crimes.¹⁶

The Code of Criminal Procedure was similarly amended by the same Criminal Law (Amendment) Act, 2013.

Section 154 — When the information is given by the woman victim of a crime under Section 326A, 326B which are the sections dealing with acid attacks (and other sections of the IPC), the information will be recorded by a woman police officer or any woman officer.¹⁷

Section 154(a) provides for special provisions for survivors of offences under Sections 354, 354A, 354B, 354C, 354D, 376, 376A, 376B, 376C, 376D, 376E, or Section 509 of the IPC (sexual harassment, criminal force to a woman with intent to disrobe, watching a woman in a private act, stalking, rape, and aggravated rape). When an offence under the Sections has been committed and the victim has been permanently or temporarily mentally or physically disabled, then the police officer shall, in the presence of a special educator or interpreter record information from the victim at the victim's residence or any place of the victim's choosing. The recording of such information may be video graphed if needed.¹⁸

Section 154(a) seems to have overlooked acid attack victims as Section 326 A and 326 B has not been included. This might be particularly problematic as

¹⁵Ibid, Sec. 166 A

¹⁶Ibid Sec. 166 B

¹⁷Sec. 154 Criminal Law Amendment Act, 2013 (Act No. 13, 2013)

¹⁸Sec. 154 (a), Criminal law Amendment Act, 2013 (Act No. 13, 2013)

in most cases acid attack victims suffer from significant physical disability following the attack.¹⁹

Section 164 (5A) (a) makes similar provisions as Section 154 (a), for a Judicial Magistrate to record the statement taking the assistance of a special educator or interpreter in cases wherein the victim is temporarily or permanently mentally or physically disabled, and for the statement to be video graphed. This statement shall be considered in lieu of examination in chief under the Indian Evidence Act.²⁰

Again, acid attacks under Section 326A and 326B have not been included within this section.

Article 51 of the Indian constitution of India provides: “the state shall endeavor to (a) promote international peace and security...(c) to foster respect for international law and treaty obligations in the dealings of organized peoples with one another.”²¹ The Supreme Court has relied on Article 51 when affirming India’s obligations under international human rights convention and treaties. In **Vishaka v. State of Rajasthan**, the Supreme Court held, “It is now an expected rule of judicial construction that regard must be had to international conventions and norms construing domestic law when there is no inconsistency between them and there is a void in the domestic law.”²² Accordingly, India’s international human rights convention obligations create binding legal norms unless Parliament has created directly conflicting law.

5.1.3 International and National Comparative Law for Acid Attack

The most useful human rights conventions and treaties for activists, advocates, and survivors working on acid attack are:

- **ICCPR:** International Covenants on Civil and Political Rights, ratified by India in 1966

¹⁹Ibid, Sec.154 (a)

²⁰Ibid Sec.164 (5A) (a)

²¹Constitution of India (1950) Article 51

²² Vishaka and other v. state of Rajasthan and other (1997) 6 SCC 241, AIR 1997; see also Apparel Export Promotion Council v. Chopra (1999) 625 SC 634, AIR 1999

- **ICESCR:** International Covenants on Economical, Social and Cultural Rights, ratified by India in 1968
- **CEDAW:** Convention on the Elimination of All Forms of Discrimination against Women, 1979 ratified by India in 1993

Specific facts in each case may also invoke the fundamental rights protections enshrined in the following conventions:

- **CERD:** Convention on the Elimination of Racial Discrimination, ratified by India in 1968
- **CRC:** Convention on the Rights of the Child, ratified by India in 1992

Finally an acid attack survivor's injuries may result in a disability and trigger the protection in the:

- **CPRD:** Convention on the Rights of Person with Disabilities, ratified by India in 2007

These human rights conventions provide wide protections and guarantees across a spectrum of fundamental rights. This chapter briefly outlines treaty provisions that obligate the government of India to take immediate steps to eliminate acid attacks and to ensure justice for survivors.

5.1.3.1 Right to Life

Under Article 21 of the constitution of India and all international obligations, India must protect the right to life. Article 6 (1) of the ICCPR guarantees, "Every human being has the inherent right to life. This right shall be protected by law."²³ Similarly Article 6(1) of the CRC guarantees "every child...the inherent right to life"²⁴

Acid attacks constitute a grave assault to the right to life. In many cases the initial attack proves to be fatal. In other cases, acid attack survivors die as a

²³ International Covenant on Civil & Political Rights, New York, 16 December 1966, United Nations Treaty Series, vol. 999, p.171 (Article 6).

²⁴ Convention on the Rights of the Child, New York, 20 November 1989, United Nations Treaty Series, vol. 1577, p.3 (Article 6).

result of infections, botched surgeries or suicide.²⁵ As a result of these impacts, some states routinely prosecute acid violence as attempted murder.²⁶ To ensure the right to life, the Government of India must take immediate steps to end acid attacks.

5.1.3.2 Right to Health

The right to health becomes an essential advocacy issue for survivors who require a lifetime of surgeries, physiotherapy and psychological care. At the same time, taking steps to guarantee the right to health to all by ensuring fundamental services including improved emergency care, ambulances, trained staff and infrastructure will strengthen public health systems and guarantee survivors the urgent care they require post-attack.

Article 12(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”²⁷ Article 12(2)(d) obligates States Parties to the Covenant to take steps to “achieve the full realization of this right...necessary for: ...(d) the creation of conditions which would assure to all medical service and medical attention in the event of sickness.”²⁸ Likewise, Article 12 of CEDAW states, “State Parties shall take all appropriate measures to examine discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to healthcare services...”²⁹ the CRC (Article 24), CRPD (Article 25) and CERD (Article 5) also guarantee the right to health. To ensure the right to health, all services must meet the minimum standard established by the Available, Accessible, Acceptable, Quality (AAAQ) framework.

²⁵ Syed emdadul Haque, Habibul Ahsan, Human Rights Violations Against Women: Acid Violence in Bangladesh, 46 Am.J.Prev.Med.216 (2014) (citing C. Garci, Moreno et al., prevalence of intimate partner violence: Findings from the WHO multi-country study on women’s health and domestic violence, 368 The Lancet (2006): 260- 269).

²⁶ Law Commission of India, 226th Report on The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Survivors of Crime (July, 2008), available at: <http://indiankanoon.org/doc/87066215/> (citing prosecutions for attempted murder in the United Kingdom at page 34, and Jamaica at page 32)

²⁷ International convention on Economic, Social and Cultural Rights, New York, 3 January 1976, United Nations Treaty Series, vol. 993, p.3

²⁸ Ibid.

²⁹ Convention on the Elimination of all forms of Discrimination Against Women, New York, 3 September 1981, United Nations Treaty Series, vol. 1249, p.13

5.1.3.3 Available, Accessible, Acceptable, Quality medical services (AAAQ)

Availability means that public health facilities function and have adequate supplies of medicine and equipment. In the context of acid attacks, survivors must be able to reach facilities in time to treat their burns, the facilities must have equipment and staff who can effectively treat acid burns, and the Government of India must create programs that guarantee acid attack survivors the rehabilitative services they require.

Accessibility requires that everyone in the state can physically reach health facilities and that all people can avail health services regardless of race, class, ability to pay for services, ethnicity, caste, sex or background. The accessibility requirement is especially crucial for acid attack survivors who may not be able to pay for treatment or who may live at great distances from the specialized care they require. In certain cases, compounded discrimination based on caste may also render health facilities inaccessible to acid attack survivor. For example, in 2012 hospital workers at the Patna Medical College Hospital in Bihar told acid attack survivor Chanchal Paswan that the hospital did not treat Dalit.³⁰ Acid attack survivors should be able to access care, including surgery and physiotherapy, throughout their lives.

Acceptability demands that health facilities and services respect medical ethics and create a gender and cultural sensitive space for care. For acid attack survivors, medical facility staff must be sensitive to the particular trauma that result from acid attacks and the social exclusion that survivors often experience. Health care providers should understand that acid violence is a form of gender-based violence and may be a form of domestic violence and respond accordingly. Quality measures whether services are scientifically and medically appropriate. Acid attack survivors have a right to receive the latest treatment with up-to-date equipment and procedures. At a July 2014 consultation on violence against women acid attack survivor Anu described the unacceptable and poor quality care she received after her attack:

³⁰ Parivartan Kendra v. Union of India & Ors. WP (C) 867 (2013), Supreme Court of India.

I was taken to AIIMS (All India Institute of Medical Science), there the doctor treatment me came at me with pliers to remove my nose piercing and was grabbing my chest, to which I complained. He threatened not to treat me, he did that again, I complained twice to no avail and then kicked him, then nurses gathered, I told the nurses what the doctor was doing and asked for a different doctor.”³¹

At the same consultation Chanchal Paswan remembered the unavailable, inaccessible, unacceptable, poor quality treatment she received in Patna:

I went to hospital, there were no senior doctors, only junior doctors, I reached there at around 2 am, they were not starting my treatment; my treatment was started around 10 am. I was writhing in pain. My sister and I were made to sleep on the same bed in the same room as dead corpses. My treatment was started only because media people came to cover the incident. The treatment and behavior of the hospital staff was very bad, they used to taunt us saying that we don’t own the hospital. After a fight with doctor and nurses we came to Safdarjang Hospital in Delhi (a distance of over 1,000 kms) where had four surgeries.³²

Both testimonies illustrate the importance of health care that fulfills each component of the AAAQ framework. To ensure the right to health, the Government of India must take immediate steps to ensure Available, Accessible, Acceptable, Quality medical services.

5.1.3.4 Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

The right to be free from torture and cruel, inhuman or degrading treatment is a non-derogable right, meaning that states must ensure this right under all circumstances; it is an absolute right in international law. Article 7 of the ICCPR states, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”³³ Moreover, Article 37 of the CRC, prohibits

³¹ Quote from Anu’s testimony presented at national consultation, *Using the Law to Combat Violence Against Women*, New Delhi, 12 July 2014 (Transl. Salina Wilson)

³² Ibid., from Chan Chal’s testimony.

³³ ICCPR, Article 7.

subjecting children to cruel, inhuman or degrading treatment or punishment. In international law, gender-based violence, including acid attacks can be considered a form of torture or cruel, inhuman, degrading treatment. In fact, to assess state compliance with Article 7 of the ICCPR, the Human Rights Committee, “needs to be provided with information on national laws and practices with regard to domestic and other types of violence against women including rape.”³⁴

Manfred Nowak, the former United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment found, “Certain types of gender-specific violence, either perpetrated by State actors or in the private sphere, might amount to torture or inhuman and degrading treatment.”³⁵ Regarding acid attacks the Special Rapporteur found:

In the case of women victims of acid attacks, they are faced both by physical challenges, that may require long term surgical treatment, as well as by psychological challenges, which require long-term intervention from counselors at each stage of physical recovery. It is crucial to interpret the torture protection framework in the light of a wide range of human rights guarantees, in particular the set of rules that has developed to combat violence against women, which can provide valuable insights into the particular challenges posed by the such type of violence as well as the specific needs of the victims.”³⁶

5.1.3.5 The Right to Equality and Non-Discrimination

The ICCPR, ICESCR, CEDAW, CRC, CRPD, and CERD all guarantee the right to equality and non-discrimination. As a gender-based crime, acid violence constitutes a violation of the right to equality and non-discrimination.

³⁴ Human Rights Committee General Comment No. 28, Equality of Rights Between Men and Women (Article 3), U.N. Doc CCPR/C/21/Rev/Add/10 (29 March 2000), available from http://tbinternet.ohchr.org/treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_21_Rev-I_Add_10_6619_E.pdf.

³⁵ “Acid Burning attacks- Victimization, Survivors, Support” Statement by Manfred Nowak Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment (side event sponsored by Women’s UN Report Network, Worldwide organization for Women and NGO Committee on the Status of Women, Strengthening the protection of women from torture and ill-treatment, Geneva 15 September 2010) <http://www.womenenabled.org/pdfs/Nowak-torture-2010.pdf>. (page 2)

³⁶ Ibid., 5

ICCPR and ICESCR Both the ICCPR (Article 3) and ICESCR (Article 3) guarantee that the rights enshrined in each Covenant will be enforced free of discrimination based on sex. In General comment No. 16 (2005), the Committee on Economic, Social, and Cultural Rights states, "Gender-based violence is a form of discrimination that inhibits the ability to enjoy rights and freedoms, including economic, social and cultural rights, on a basis of equality".³⁷

Became acid attacks disproportionately impact women, the Government of India has to take action to prevent acid attacks so that women can enjoy their fundamental rights on an equal basis to men. The Government therefore has an obligation to take special measures "in order to attenuate or suppress conditions that perpetuate discrimination."³⁸ The Committee on Economic, Social, and Cultural Rights underscores State Parties' obligation to respect, protect, and fulfill the right to be free from discrimination.

To respect this right, India must "take steps aimed directly at the elimination of prejudices, customary and another practice that perpetuate the notion of inferiority or superiority of either of the sexes, and stereotyped roles for men and women."³⁹ To protect the right to non- discrimination, India must adopt legislation, develop administrative measures and programmes for training and awareness, and create public institutions to safeguard "women against discrimination."⁴⁰

Finally, to meet its obligation to fulfill women, right to enjoy their rights on the basis of equality, the government of India should take steps to ensure, "available and accessible appropriate remedies, such as compensation, reparation, restitution, rehabilitation, guarantees of non-repetition...design and implement policies and programmes to give long-term effect to the economic, social, and cultural rights of both men and women on the basis of equality....."⁴¹

³⁷Committee for Economic, Social and cultural Rights, General Comments No.16, The equal right of men and women to the enjoyment of all economic, social and cultural rights (Art.3 of the International Covenant on Economic, Social and cultural Rights, E/C.12/2005/4 (11 August 2005), available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%21C.12%212005%214&I.ang=en.

³⁸ Ibid., Para 15.

³⁹ Ibid., Para 19

⁴⁰ Ibid.

⁴¹ Ibid., Para 21

The obligation to respect, protect, and fulfill the right to be free from discrimination regarding gender-based acid violence requires the Government of India to take steps to end cultural norms that limit women's rights to autonomy to pass laws and empower institutions that prevent acid violence, and to provide access to just compensation, rehabilitation services (medical, psychological, economic, and social).

5.1.3.6 CEDAW

Although CEDAW does not outright define violence against women as sex discrimination, Articles 2 and 5 obligate States Parties to:

Article 2: Pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (b) to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

Article 5: Modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. In General Recommendation No. 19, the CEDAW Committee states, "Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men."⁴² In commenting on Article 5 the Committee finds, "Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women."⁴³ In light of its comments, the CEDAW Committee ultimately recommends:

- a. States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act;

⁴²CEDAW Committee, General Recommendation No. 19, Violence Against Women (1992), para. 1, available at: <http://www.un.org/womenwatch/daw/ceda/recommendations/recomm.htm>.

⁴³ Ibid. para. 11

- b. States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials are essential for the effective implementation of the Convention;
- c. States parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence;
- d. Effective measures should be taken to ensure that the media respect and promote respect for women;
- e. States parties in their report should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women, and the kinds of violence that result. They should report the measures that they have undertaken to overcome violence, and the effect of those measures;
- f. Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information programmes to help eliminate prejudices which hinder women's equality;
- g. Effective complaints procedures and remedies, including compensation, should be provided
- h. States parties should establish or support services for victims of family violence, rape, sex assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling;
- i. States parties should ensure that services for victims of violence are accessible to rural women and that where necessary special services are provided to isolated communities;
- j. That States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia:
 - i. Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of

- violence, including, inter alia, violence and abuse in the family, sexual assault and sexual harassment in the workplace;
- ii. Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women; iii. Protective measures, including refuges., counseling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence;
 - k. That States parties should report on all forms of gender-based violence, and that such reports should include all available data on the incidence of each form of violence, and on the effects of such violence on the women who are victims;
 - l. That the reports of States parties should include information on the legal, preventive and protective measures that have been taken to overcome violence against women, and on the effectiveness of such measures.

For acid violence, CEDAW obligates the Government of India to enact specific laws and ensure their implementation, to train the police and judiciary on gender-based violence and acid violence response, to compile data on acid violence, to introduce education programs on the issue, to create an effective compensation and rehabilitation scheme, and to evaluate the actions taken to prevent and address acid violence.

5.1.3.7 CERD and CRPD

The facts in certain cases may also trigger the protection of the rights enshrined in the Convention on the Elimination of Racial Discrimination and/or the Convention on the Rights of Persons with Disabilities. If survivors face discrimination as a result of their caste or as a result of injury-related disabilities, the Government of India's obligations to end this discrimination will be triggered.⁴⁴ For example, CERD prohibits the caste-based discrimination Chanchal Paswan experienced in Patna. CRPD reaffirms disabled people's right to be free from discrimination. This would include acid attack survivors who become disabled after an attack. Article 6(1) of the CRPD acknowledges the compound discrimination women and girls with disabilities may experience and obligates

⁴⁴ E.g., CERD, Article 1(1).

states to ensure "the full and equal enjoyment by them of all human rights and fundamental freedoms."⁴⁵ To ensure the right to non-discrimination and equality the Government of India must inter alia take immediate steps to address gender discrimination, cultural norms that allow for acid attacks, and survivors' access to services.

5.1.3.8 Right to Be Free from Sexual and Gender-Based Violence

In India acid violence manifests as a grave form of gender-based violence or "violence directed against a woman because she is a woman or that affects women disproportionately."⁴⁶ Women comprise the majority of survivors and men comprise the majority of assailants. Many survivors have been attacked because their behavior and decisions challenge norms governing the way women should behave. The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) does not contain specific articles prohibiting violence against women. However, CEDAW does obligate States, 5(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.⁴⁷

In April 2014, the United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences, expressed concern about India's "high incidence of acid attacks on women...despite the development of new legislative measures."⁴⁸ She noted, "Victims of acid attacks are predominantly women who challenge patriarchal norms, including by opposing marriage or partner proposal".⁴⁹ The Special Rapporteur also underscored the wider societal implications of acid violence: "It creates a climate of fear for other women as regards the consequences of failing to abide by and respect traditional practices

⁴⁵ CPRD, Article 6(1).

⁴⁶ CEDAW Committee, General Recommendation No. 19, Violence Against Women (1992), Para. 6.

⁴⁷ CEDAW, Article 5(a)

⁴⁸ Human Rights Council, Report of the United Nations Special Rapporteur on Violence Against Women its Causes and Consequences, Rashida Manjoo, Mission to India (April 2014), para.14, available at: <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/CountryVisits.aspx>.

⁴⁹ Ibid.

and roles.”⁵⁰ At the same time, the Human Rights Committee has found that to comply with Article 3 of the ICCPR (equality of rights between men and women), States Parties must take measures “with regard to domestic and other types of violence against women, including rape”.⁵¹ In this context, India has an obligation to create legislation, policies, and appropriate measures to eliminate the cultural norms that maintain discrimination and violence against women. Until women can turn down suitors without fear of violence or retribution, violence against women will persist.

5.1.3.9 Right to education and to work

Like the Indian Constitution, the ICESCR guarantees the right to education⁵² and the right to work.⁵³ CEDAW obligates states to eliminate discrimination against women in both education⁵⁴ and employment⁵⁵ while CERD obligates states to end discrimination based on caste descent, or national or ethnic origin in employment.⁵⁶ Finally the CRPD outlines extensive protections and obligations regarding states' duties to people with disabilities in employment and education. Acid attack survivors may become blind, deaf or suffer from physical disabilities as a result of an attack. Under the CRPD, disabled acid attack survivors have a right to access education and any support they may need to complete their education. Article 24 of the Convention on the Rights of Persons with Disabilities obligates the Government of India to ensure:

- a. Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary, education, on the basis of disability;
- b. Person with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- c. Reasonable accommodation of the individual's requirements is provided;

⁵⁰ Ibid

⁵¹ Human Rights Committee General Comment No. 28, para. 11.

⁵² ICESCR, Article 13.

⁵³ ICESCR, Article 6.

⁵⁴ CEDAW Article 10.

⁵⁵ CEDAW Article 11.

⁵⁶ CERD, Article 1.

- d. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- e. Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.⁵⁷

Moreover, disabled acid attack survivors have a right "to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others."⁵⁸ Activists and advocates should ensure that acid violence survivors have access to employment and education after attacks in line with international obligations.

Article 27 of the CRPD guarantees the right to work and outlines 11 specific legislative steps the Government of India should take to ensure that disabled acid attack survivors realize this right including:

- a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
- g. Employ persons with disabilities in the public sector;
- i. Ensure that reasonable accommodation is provided to persons with disabilities in the workplace.....⁵⁹

The CRPD provides wide protections for acid attack survivors and guarantees access to the rehabilitative, educational, and occupational services they require.

5.2 Law in Other Countries

5.2.1 Acid Violence in Other Countries: A Situational Analysis

Acid attacks have been documented in various different parts of the world including Australia, Bangladesh, Cambodia, China, El Salvador, Ethiopia, Italy,

⁵⁷ CRPD, Article 24 (2) (a-e)

⁵⁸ CRPD, Article 24 (5)

⁵⁹ CRPD, Article 27.

Laos, Malaysia, Nepal, Pakistan, Sri Lanka, Thailand, Uganda, UK, USA, and Vietnam. However, the number of incidences in Bangladesh, India, Pakistan, Cambodia and Uganda are much higher and are on the rise. Certain social and cultural issues responsible for these attacks have been “refusals of a relationship or marriage proposal, failures of a girl to bring a dowry to her husband, marital disputes, family disputes, political rivalries, land disputes and the accidental presence of the victims at the scene.”⁶⁰ Most of the reasons are specifically related to gender and are common reasons in countries like Bangladesh, India, Pakistan, Cambodia, and Uganda; where other crimes against women like dowry related crimes, domestic violence and honor crimes exist. Infact in India, it has been said that “acid attacks on women are a systemic form of gendered sexual violence. Unlike acid attacks on men, these attacks are used as a weapon to silence and control women by destroying what is constructed as the primary constituent of her identity, i.e., her body. It is important than for any campaign against acid attacks to mobilize public opinion towards recognizing acid attacks as a form of gendered sexual violence and more importantly to recognize then patriarchal notions underlying these attacks”.⁶¹

Furthermore, depicting country specific trends is useful while drawing up an appropriate legislation to address the problem. For instance, as many of cases of acid violence in Cambodia occur in the household, the crime has been proposed to be addressed in their Domestic Violence Act. A similar approach was taken in Bangladesh in 1995 when the government initially thought acid attacks to be a gender specific crime and passed the Cruelty to Women and Children Act. In 2000 the Prevention of Oppression against Women and Children Act again dealt with acid attacks on women and children. However, the rise in trends of acid violence against men that ensued in the late 1900s made it necessary for the Bangladeshi government to pass a law that dealt with the crime against both women and men in specific terms. Hence, in 2002 two new laws, the Acid Offences Prevention Act 2002 and Acid Control Act were enacted in 2002 to address the growing problem.

⁶⁰ Internet Edition Holiday, *The acid violence against women*, Shadnaz Khan, May 27, 2005

⁶¹ *Burnt not Destroyed-Report* by CSAAAW.

5.2.2 Details of Law in other Countries

Acid attacks have been reported in every region of the world, with particularly high incidence in south Asia and in south Asian communities. Most states punish acid violence under the existing norms prescribed for violent crime or gender-based crime (e.g., attempted murder, assault, domestic violence).⁶² Increasingly, countries with higher acid attack rates have enacted specific legislation on acid violence and/or the sale of acid. Bangladesh, the state with the highest rate of acid attacks, has the most comprehensive acid attack legislation in the world. This section outlines a few sample laws and provides a more comprehensive overview of Bangladesh, Acid Crime Control Act (2002) and Acid Crime Prevention Act (2002).

5.2.2.1 Afghanistan

In Afghanistan, perpetrators of acid violence target women and girls who dress "immodestly" or fail to wear a hijab. Religious extremists have also used acid as a weapon to terrorize girls who attend school.⁶³ Afghanistan's Elimination of Violence Against Women Law (EVAW 2009) specifically criminalizes acid attacks and includes a 10-year to life sentence for convicted attackers. Implementation of the EVAW has stalled and in 2013 the United Nations found that "Afghan authorities need to do more to build on the gains made so far in implementing the EVAW."⁶⁴

5.2.2.2 Pakistan

A large percentage of acid attacks in Pakistan occur in the context of domestic violence between married couples or when women and girls have "shamed" their families.⁶⁵ The Lower House of Parliament unanimously passed the 2011 Acid Throwing Crime Bill which includes a sentence of 14 years to life

⁶²Dexter Filkins, "Afghan Girls, Scarred by Acid, Defy Terror, Embracing, School," *Times* 1 January 2009 available at: http://www.nytimes.com/2009/01/14/world/asia/14kandahar.html?_r=0

⁶³ Law o Elimination of Violence against Women, Islamic Republic of Afghanistan, 1 August 2009 (Article 5)

⁶⁴A way to Go: An Update on Implementation of the Law on Elimination of Violence against Women in Afghanistan, United Nations Mission in Afghanistan and United Nations Office of the High Commissioner for Human Rights, December 2013, page 4.

⁶⁵ Asian Human Rights commission, Acid Attacks a serious concern in Pakistan (2010) available at: <http://www.humanrights.asia/resources/journals/magazines/eia/eiav4a1/3.acid.attacks.a.serious-concern.in.pakistan>.

in prison and a fine of one crore Pakistani Rupees.⁶⁶ Under the new law, the conviction rate has increased from 6 percent to 18 percent.⁶⁷ In addition to the Bill, the Supreme Court of Pakistan has been a strong force in combating acid attacks and ensuring justice. As advocate Sikander Naeem reports, “It has become much easier to get a conviction because the Supreme Court has also taken a special interest in such matters. The statement of a victim alone is sufficient for the conviction of an accused.”⁶⁸ At the same time, critics have noted that the Bill does not ensure compensation to survivors and that patriarchal norms in the police and judiciary create barriers to justice for survivors.

5.2.2.3 Bangladesh

There has been a steady increase in acid attacks in Bangladesh from approximately 12 per year to 50 per year in the mid-1990s. An even more significant jump was observed in the late 1990s when NGOs in Bangladesh reported up to 250 cases per annum. The sudden increase in cases has been partly attributed to better reporting and making the cases more visible by NGOs like Naripokkho, a women’s advocacy organization, in 1995 and the Acid Survivors Foundation in Dhaka in 1999. These NGOs made sure that as many cases as possible were reported and recorded and that the victims received help and compensation.⁶⁹ However, only part of this increase can be explained by this progress that was made in the documentation of cases⁷⁰. In 2001, 340 cases were reported, in 2002, 336 cases were reported and in 2003, 335 cases were reported⁷¹. Earlier attacks were almost always committed against young women and girls by men who were angered by their victims rejecting their sexual advances or marriage proposals. However, as the crime became more common the motives for

⁶⁶ Act No. o 2011, An Act further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898, The Gazette of Pakistan. Reg. No. M•302, page 497 (28 December 2011).

⁶⁷ Agence France-Presse, Tough Law Sees Acid Conviction Rate Triple in Pakistan, (5 March 2013)

⁶⁸ Ibid.

⁶⁹ *Acid Attacks: Bangladesh's Efforts to Stop the Violence*, Jordan Swanson, Harvard Health Policy Review Archives, Spring 2002; Vol 3, No 1

⁷⁰ *Baseline Survey with International Comparative Analysis of the Legal Aspects of Acid Violence in Uganda*, Commissioned by: Acid Survivors Foundation Uganda, Legal Consultant: Rachel Forster, November, 2004

⁷¹ *Acid Violence Against Women*, Quoting ASF statistics.

attacks grew more varied and presently more than 30% of victims are men, and land disputes are one of the biggest reasons for attacks.⁷²

Between 1999 and 2002, acid attacks in Bangladesh increased at a rate of 50% per year, culminating in 485 attacks in 2002. In 2003 there was a 15% decrease in cases to 410 per year.⁷³

The experience in Bangladesh was that acid violence cases took up to 10 years to be prosecuted in court and as many as 1 in 10 cases did not go to trial.⁷⁴ By 1999 only 10 men had been imprisoned as a result of an acid crime. Between 1999 and 2001 of the 750 acid attack cases reported and only 25 were convicted.⁷⁵

The Acid Offences Prevention Act 2002⁷⁶ reads as follows-

Section 4: Punishment for killing of a person by acid: Whoever kills anyone by acid shall be punished with, death or rigorous imprisonment for life and also with fine no exceeding One Lac Taka

Section 5: Punishment for hurt by acid: Whoever causes such bodily injury to a person, by acid, that-

- a) His/Her sight or ear is damaged fully or partly or face or breast or sexual organ is disfigured or damaged, he shall be punished with, death or rigorous imprisonment for life and also a fine not exceeding One Lac Taka.
- b) Any member or joint of his/her body is disfigured or damaged or injured in any part thereof, he shall be punished with, imprisonment of either description which may extend to 14 years but not less than 7 years of rigorous imprisonment.

Section 6: Punishment for acid throwing or attempt to throwing: Whosoever throws or attempts to throw acid on any other person even if such an act causes no damage or injury to that other person whether physically, mentally or otherwise, he shall be punished with, imprisonment of either description which

⁷² *Acid Survivors Foundation Bangladesh*.50 Acid Survivors Foundation Bangladesh

⁷³ Ibid.

⁷⁴ Monira Rahman, Executive Director, Acid Survivors Foundation, Bangladesh

⁷⁵ Constitution of India (1950) Article 51.

⁷⁶ Unofficial translation of Act 2 of 2002, The Parliament of Bangladesh.

may extend to 7 years but not less than 3 years of rigorous imprisonment also with a fine not exceeding Fifty Thousand Taka.

It is relevant to mention that prior to 1983; all acid crimes in Bangladesh were prosecuted using the penal code. In 1983, the word “acid” was included in the penal code to try to provide some clarity, but there were still gaps in the law when considering the very specific nature of acid crimes.⁷⁷ In 1995 the government enacted the Cruelty to Women and Children Act and this Act addressed acid attacks specifically. At that point in time, acid violence was thought to be a gender specific issue and all acid crimes against women and children were prosecuted through this Act. However, any attack committed against a man had to be prosecuted through the old penal code. From 1995 onwards there was an increased trend in the use of acid against men and so a new law was needed to prosecute cases inflicted on men. When the law was revised and in 2002, the maximum punishment was increased from 7 years under the penal code to death.

1. The law addresses the problem of delay in prosecuting cases by providing a fixed time for investigations:
 - The investigating police officer must complete the investigation within 30 days following the reported attack or the Magistrate’s order for an investigation.
 - Two extensions of 15 days each can be granted on application to the court
 - If after 60 days, the officer is unable to complete the investigation, a new officer must be assigned and action will be taken against the first officer
 - The new officer has 15 days to complete the investigation.
2. Trial Procedures:
 - The total time allowed for investigations is 90 days. The trial then has to be completed and a conviction secured within 90 days of the end of the investigation period.

⁷⁷ Constitution of India (1950) Article 51.

3. The court is very proactive in ensuring that the police investigate acid cases. Section 13 in the Act states that legal action will be taken against any officers who are negligent or corrupt in investigating the crime.
4. Medical Examination of the Victim: This Section is to ensure that the acid attack victim gets proper medical examination immediately and receive a certificate regarding the examination. The Section also lays down that action will be taken against a negligent doctor.
5. All offences under the Act are cognizable, non-compoundable and non-bailable.
6. Although the crime is regarded as non-bailable in Section 13 of the Act, Section 14 of the act is a specific provision that gives the Court some discretion as to when it can grant bail. This Section states that a bail petition cannot be filed if the Court is convinced that the complainant is not given the chance for hearing on the bail petition, or there is reasonable ground for conviction or He/she is not woman or child, or not physically impaired and the tribunal is not satisfied that ends of justice will not be hampered if he is enlarged on bail. If the Court is satisfied that the person is not involved in the offence, it can grant bail.
7. Acid-offences Prevention Tribunals have been set up solely to try acid cases, headed by district or session judges. These topic-specific Tribunals are to ensure that members on the Tribunals are properly sensitized to acid attack cases.

The Acid Control Act, deals with restricting and controlling the sale and supply of acid in Bangladesh. This Act attempts to control the sale and supply of acid in Bangladesh. 15-member National Acid Control Councils have been established across the country. Each council is headed by a District Commissioner. Members of the Councils are selected from the government and also lawyers, commerce people, medical professionals, specialists in women's issues and members of the media. The councils make proposals to take action to enforce and monitor the laws regarding acid sale in their respective area as well as to assist in the proper reporting, treatment and rehabilitation of victims.

The councils raise public awareness about the consequences of acid crime. In spite of the enactment of the new law the experience in Bangladesh has been

that it is still very hard to restrict the sale of acid. It is first difficult to find the source of the acid used during the attack and thus to prosecute the supplier. It is also easy disguising the reason for requiring acid by proposing legitimate excuses. Furthermore, covering up the real supply of acid in their records is an effortless task for suppliers and as bribery is common in Bangladesh, acid is easy to obtain.

5.2.2.4 Cambodia

In a 2003 report on acid attacks in Cambodia⁷⁸, collected from newspapers it was reported that between December 1999 and November 2002, 63 people were subject to acid attack. Out of these, 30 victims were female and 31 males. However, 29% of the victims were not targets of the attack and 12 males and 4 females, plus two others whose sex had not been reported were injured by accidents and included friends and family members of the victims or their drivers and other nearby passers. Thus, most the intended victims were women. Thereafter it has been reported⁷⁹ that at least 60 known cases of acid attack violence occurred in 2005. However, others⁸⁰ suspect that the annual incidence rate could be as high as 100. A newspaper report⁸¹ states that from October 1999 to December 2006 there have been 111 cases of acid attacks with a total of 181 victims. Most of these attacks were perpetrated on women⁸² and involved husbands throwing acid on their wives or former wives, wives throwing acid on the second wives or mistresses and in some cases women throwing acids at their husband because of husband's violence (beating and abusing) towards them.

The Law:

Acid Violence is not specifically addressed in Cambodian criminal law. Perpetrators can be charged with battery with injury, which carries a sentence of up to 10 years imprisonment.

⁷⁸2003 report by licadho, *living in the shadows: acid attacks in Cambodia* published by project against torture Cambodian league for the promotion of human rights (licadho).

⁷⁹ Data provided by Combodian Acid Survivors Charity (CASC)

⁸⁰ Suspect Acid Survivors Trust International (ASTI)

⁸¹ *The Cambodia Daily*, 5 Dec 06

⁸² 2003 report by LICADHO, *Living in the Shadows: Acid Attacks in Cambodia*

Article 41: Assault and battery⁸³

1. Anyone who voluntarily strikes another resulting in injury leading to permanent disability or temporary disability lasting more than six months, is guilty of battery and shall be liable to a punishment of one to five years in prison.
2. If the disability lasts less than six months, the offence shall be punished by a term of imprisonment of six months to two years.
3. If there is no disability, the punishment shall be a term of imprisonment of two months to one year.
4. If any weapon is used to strike the blows, the period of imprisonment shall be doubled.

If the victims dies or receives life-threatening injuries, more serious charges such as murder, attempted murder or manslaughter should be laid. They carry sentences of 10 years to life imprisonment.

Article 31: Murder

1. Anyone who kills or attempts to kill another person after premeditating the crime, or by preparing an ambush, or who kills or attempts to kill another person in the course of theft or rape, is guilty of the murder, and shall be liable to a punishment of imprisonment for a term of ten to twenty years.
2. Premeditation is the process of conceiving and preparing an attack on another person before the actual execution of the attack. An ambush consists of lying in wait with the intention of committing an act of violence against another person.

Article 32: Voluntary manslaughter

Anyone who voluntarily kills or attempts to kill another person without any of the aggravating circumstances mentioned in Article 31, whether or not a weapon is used, is guilty of the crime of voluntary manslaughter, and shall be liable to imprisonment for a term of eight to fifteen years.

⁸³Provisions dated September 10, 1992 relating to the judiciary and criminal law and procedure applicable in Cambodia during the transitional period, www.licadho.org

However, convictions have been reported in only 6 cases and women have normally received more severe punishments than men⁸⁴. A draft provision in Cambodia's domestic violence law is being approved by the National Assembly and Senate. It proposes a punishment for acid throwers of between 5 – 10 years imprisonment. Activists are still campaigning for the wording to be changed to apply to any person who throws acid, rather than just the current application only to family members who throw acid on other family members. This would exclude people who throw acid at victims who are not related to them. Also, activists argue that the maximum penalty for acid throwing should be increased, especially if permanent disfigurement or disability, like blindness, has been caused. This would be the first time that Cambodian law specifically refers to acid attacks. However, till date the Domestic Violence Law, which was approved in 2005 does not deal with acid attacks in specific terms.

5.2.2.5 Uganda

In Uganda according to Acid Survivor's Foundation (ASFU) Acid violence in affects both men (48%) and women (52%) in almost equal numbers⁸⁵. The motives behind the attacks are domestic arguments, land disputes, business rivalry etc. There are also cases of victims that have been injured by mistake for being there at the time of the acid throwing as there were in Cambodia. These are often children who were being carried by the mother victims at the time of the attack. ASFU is also aware of many cases where victims have no idea why they were the target of an attack. Acid violence crosses the social strata of society in Uganda – from the very poorest to some very influential and wealthy people. ASFU has found that attacks are not only carried out by the person with the grievance but in 15 % of cases, the acid is thrown by an assassin; who can be hired at a very low cost.

ASFU suspects under-reporting of acid violence cases due to public stigma attached to victims, poor access to justice, police inefficiency and the victim's lack of finances to fight the case through the police system and then the courts.

⁸⁴ 2003 LICADHO report

⁸⁵ Baseline Survey with International Comparative Analysis of the Legal Aspects of Acid Violence in Uganda, 2004.

The relevant section to arrest, prosecute, convict and sentence perpetrators of acid violence under the Ugandan Penal Code is Section 216(g) (formerly S209) and it carries life imprisonment and reads as under:-

“Any person who, with intent to maim, disfigure or disable any person, or to do some grievous *harm to any person or to resist or prevent the lawful arrest or detention of any person* –

- (f) *puts any corrosive fluid or any destructive or explosive substance in any place; or*
- (g) *unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person, commits a felony and is liable to imprisonment for life.”*

However, it has been reported that the above section is not applied consistently by the police or the courts. Many attackers have been charged under other sections of the Penal Code, for example, under Section 219 for “grievous harm” which carries a sentence of up to seven years only. Another problem that arises is that police officers have too much discretion in terms of the degree of charges that they are able to bring on. Moreover, the police are not consistent in bringing charges, as charges that are filed often seem to be dependent on the individual decision of the police officer rather than one of policy.

A charge is also often levied according to the level of injury rather than by investigating the intent and motive behind the attack. Therefore, if the victim manages to avoid major injuries, the perpetrator is released or only charged with a minor assault, despite the fact that the perpetrator had intended to disfigure or kill the victim. ASFU has recorded cases where there had not been physical injury and therefore no prosecution of the perpetrator or only a light sentence, resulting in the victim living in fear of a later attack. In Uganda only a few acid attacks have been charged under attempted murder which seems unfair given the premeditated nature of acid attacks.⁸⁶ Apart from this in Uganda the police are often corrupt, the prosecutors inefficient and sometimes cases are dropped because the victims are either silenced by threats or paid off.

⁸⁶ ASFU Report 2004

As eluded to above, there is no consistency in sentencing, a fact confirmed generally in the sentencing system of Uganda. Sentences vary from a few months (most of which is spent on remand) to life imprisonment. Police and judiciary discretion apply and since many do not understand the severity of acid cases, often light charges and lenient sentences result. Generally, sentences are too lenient given the permanent damage caused to the victim in terms of health, job, family and social status. Prior to ASFU intervention, in 62% of known acid cases in Uganda, perpetrators received custodial sentences of less than 10 years. Since the intervention of ASFU, the figure has dropped to 46%. There is currently no form of compensation available to victims of acid attacks, despite the significant costs incurred by victims and their families as a result of the attacks. No government fund exists to provide any form of compensation, fines are not imposed on perpetrators and ASFU has no records of any civil actions being brought against perpetrators.

Concentrated sulphuric acid, commonly used in Uganda for re-charging batteries is readily available at petrol stations, street sides and from outlets in the industrial areas of cities for purchase by any individual without any questions being asked. Currently there is no adequate legislation to control and regulate the sale and supply of acid and there are no laws to control businesses that use acid in their manufacturing process, nor for those who transport, import and export such chemicals. There are no licensing laws controlling the sale and supply of acid by vendors and no records are kept of those who buy acid and the reasons for their purchase.

However, though it is hardly used Section 230 of the Ugandan Penal Code punishes a person with imprisonment for 6 months and a fine of two thousand shillings “ who does with any poisonous substance any act in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any other person or knowingly or negligently omits to take such care with any poisonous substance in his or her possession as is sufficient to guard against probable danger to human life from such poisonous substance.”

5.2.2.6 Nigeria

Acid violence first reported in the city of Port Harcourt in the early 1990's.⁸⁷ The reported cases of acid attacks on women between 2001 and 2004 were 21 and another 14 cases between 1990 and 2000.⁸⁸ Although acid violence is a gender based crime in Nigeria, there have also been reported cases of attacks against men more recently. Between 2003 and 2004 reported 7 attacks that were committed against men by women.⁸⁹

There is no law currently in Nigeria that specifically deals with acid attacks. Offenders are prosecuted under the penal code for battery or for causing grievous harm⁹⁰. The relevant sections of the Penal Code in Nigeria read as under-

Chapter 28

Offences Endangering Life or Health

332. Any person who, with intent to maim, disfigure or disable, any person, or to do some grievous harm to any person, or to resist or prevent the lawful arrest or detention of any person-

- 1) unlawfully wounds or does any grievous harm to any person by any means whatever; or
- 2) unlawfully attempts in any manner to strike any person with any kind of projectile or with a spear, sword, knife, or other dangerous or offensive weapon; or
- 3) unlawfully causes any explosive substance to explode; or
- 4) sends or delivers any explosive substance or other dangerous or noxious thing to any person; or
- 5) causes any such substance or thing to be taken or received by any person; or
- 6) puts any corrosive fluid or any destructive or explosive substance in any place; or

⁸⁷ Project Alert on Violence Against Women, 2004

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Acid Survivors Foundation Uganda, *supra* note 506.

- 7) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person; is guilty of a felony, and is liable to imprisonment for life.

335. Any person who unlawfully does grievous harm to another is guilty of a felony, and is liable to imprisonment for seven years.

Thus in Nigeria a person can be punished with imprisonment up to life for putting a corrosive fluid in any place or for unlawfully casting or throwing any such fluid at or upon any person even if no injury is caused.

5.2.2.7 Jamaica

In Jamaica the offences against Persons Act (OAPA) provides for a life imprisonment for causing grievous bodily harm. There is no specific law dealing with acid attack even though Jamaica is said to have the largest number of absolute acid attack victims. The relevant sections of the OAPA read as follows-

Offences Against the Persons Act

Penalty for Murder: Death or life imprisonment, not being less than 15 years.

Attempts to Murder:

13. Whosoever shall administer to, or cause to be administered to, or to be taken by any person, any poison or other destructive thing, or shall, by any means whatsoever, wound, or cause any grievous bodily harm to any person, with intent, in any of the cases aforesaid, to commit murder, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, with or without hard labour.

Acts Causing or Tending to Cause Danger to Life, or Bodily Harm:

20. Whosoever shall unlawfully and maliciously, by any means whatsoever, wound, or cause any grievous bodily harm to any person, or shoot at any person, or, by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, with intent in any of the cases aforesaid, to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or

prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and, being convicted thereof, shall be liable, to be imprisoned for life with or without hard labour.

22. Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour.
29. Whosoever shall unlawfully and maliciously by the explosion of gunpowder or other explosive substance, burn, maim, disfigure, disable, or do any grievous bodily harm to any person, shall be guilty of felony and, being convicted thereof, shall be liable to be imprisoned for life, with or without hard labour.

5.2.2.8 United Kingdom⁹¹.

Although acid violence is not common in the UK, the courts have punished the perpetrators harshly, when there have been such attacks. Attacks are charged under Section 29 of the Offences Against the Person Act 1861 (OAPA). This section of the Act specifically refers to “*casting or applying any corrosive fluid with intent to burn maim disfigure or disable any person.*” If not charged under this provision, they are dealt with as murder or attempted murder.

Offences against the Person Act 1861

20. Inflicting bodily injury, with or without weapon. Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanor, and being convicted thereof shall be liable [...] 34 to be kept in penal servitude [...] 35
29. Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person, with intent to do

⁹¹The facts in this chapter have been taken from *The Baseline Survey with International Comparative Analysis of the Legal Aspects of Acid Violence in Uganda*

grievous bodily harm. Whosoever shall unlawfully and maliciously cause any gunpowder or other explosive substance to explode, or send or deliver to or cause to be taken or received by any person any explosive substance or any other dangerous or noxious thing, or put or lay at any place, or cast or throw at or upon or otherwise apply to any person, any corrosive fluid or any destructive or explosive substance, with intent in any of the cases aforesaid to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, shall, whether any bodily injury be effected or not, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or to be imprisoned

The sentencing guidelines under Section 29 of OAPA 1861, state that there should always be a custodial sentence for this offence and the maximum sentence is life imprisonment. Lengthy sentences have mostly been given by the courts in tune with the premeditated nature of the crime. Sentences of 5- 6 years imprisonment have been upheld in cases where there was no or minimal injury to the victim. For cases of severe disfigurement, sentences of 14 – 16 years' imprisonment are awarded. The case of Radford upheld in 1986 where the victim substantially lost vision in one eye and the perpetrator was given only a 5-year sentence, now seems to be out of line with the lengthier sentences imposed in the 1990's and 2000's.

Below are some cases taken from judgments of the UK courts are as under:

- **Radford (1986) 8CR App R (S) 60: 5 years' imprisonment** was upheld when a corrosive substance was squirted into the victim's face causing substantial loss of vision in one eye. The appellant had pleaded guilty at the trial and claimed that he had not intended to blind the victim only to disable. However, the Appeal judge held that because the attack was premeditated and deliberate, the conviction and sentence would be upheld
- **Ismail (1992) 13 CR App R (S) 395: 14 years' imprisonment** was upheld for throwing nitric acid into the face of an estranged partner, causing gross disfigurement and blindness.

- In the case ***Boumphrey (1994) 15 Cr.App.R. (S.) 733***, a sentence of ***13 years' imprisonment*** was upheld for the total blinding of an innocent young man. There was a plea of guilty and the appellant was a 47-yearold man with a serious heart condition. And although there were indications of previous violence, he had no previous convictions for violence. These facts reduced the length of the sentence slightly.
- ***Carrington (1999) 2CR App R (S) 206: 6 years imprisonment*** was upheld when sulphuric acid was thrown into the face of the offender's former girlfriend. No long term damage was sustained due to prompt first aid but because the attack was premeditated and no remorse was shown, the sentence was upheld. The judge stated that the fact that the victim did not sustain any serious permanent injury was not something that could go to the credit of the appellant. It was due solely to assistance given by others.
- In the case of ***Newton [1999] 1 Cr.App.R.(S.) 438*** a planned acid attack occurred on an estranged wife by her husband at her place of work, leaving her with 10 per cent burns to her body and with the aggravating feature that he robbed her till at the same time. ***A 15- year sentence was reduced by the Court of Appeal to 12 years.*** However, it is important to note that in that case there was no permanent scarring and no element of conspiracy, which serve to increase the length of a sentence.
- In the case of ***Jones [1999] 1 Cr.App.R.(S.) 473*** a man was held in a car for 45 minutes and acid poured over him following a dispute between him and the attacker over money, which was said to be owed as the proceeds of a fraudulent enterprise on their mutual behalves. Extensive burns to the face and the possible loss of one eye was incurred. ***Sixteen years was upheld as a proper sentence*** on the tariff basis for that offence, although a four-year sentence then being served was ordered to run concurrently on the basis of the totality principle.
- In ***Krishan Raja Rai & Earl Robinson (2000) 2 CR App R (S) 120: 15 years' imprisonment*** was upheld for both offenders – one who had the intent and the other who actually threw the acid. Rai had issued threats to his former girlfriend that “you think you're so pretty, you won't be for

long” and to the girlfriend’s father he had said “If I don’t get her I’ll spoil her face or I will kill her.” Robinson, who was unknown to the girlfriend ran up one evening on the street and poured concentrated nitric acid over her head from a lucozade bottle. As a result of the attack the girlfriend lost her right ear, significant scarring to her face, neck, scalp and chest. She required several surgical procedures. She also needed regular counselling from a clinical psychologist. The judge in the first instance held that the penalty for an offence of this nature must be longer than a normal sentence. Also he felt that the public needed to be protected from such offenders.

- The English courts have been equally severe against those behind an attack who have hired someone else to commit the crime. In the unreported case of **Humphries (1996)**, Mr. Peter Humphries, hired a stranger to throw acid on his former wife. Miss Hammett was babysitting for the former wife and was injured in a case of mistaken identity as the attacker did not know that she was not the intended victim. Although the attacker was never caught, Humphries received a **12-year sentence**.

The table below shows the kind of sentences that have been awarded in cases of acid attack in different countries where such data was available till

While comparative law provides guidance and lessons learned for activists, survivors, and policy makers in India, international law provides a rich tapestry of guarantees, obligations, and protections regarding acid attack prevention, justice, and rehabilitation for survivors. Although some courts in India have resisted international law, protections arising from international treaties and covenants strengthen any acid attack advocacy strategy. To make international law meaningful, acid attack activists, advocates, and survivors must hold the Government of India accountable to its treaty obligations.

Chapter - 6

RECOUNTING EXPERIENCES LIVED REALITIES OF WOMEN SURVIVORS OF ACID VIOLENCE WORKING IN SHEROES CAFÉS OF UTTAR PRADESH

6.1. Introduction

Uttar Pradesh is one of the largest states in union of India it is very important country in Asia. With the growing development of Uttar Pradesh the crime rate has also grown. Total population of Uttar Pradesh as per 2011 census is 199,812,341 of which male and female are 104,480,510 and 95,331,831 respectively. Uttar Pradesh is located at 26.85 North and 80.91 East & lies in northern India. Bihar is on the east and Rajasthan is on the west of Uttar Pradesh.

The crime rate against women was reported as 55.2 in 2016. Delhi the union territory has reported the highest crime rate (160.4) compared to 55.2 at all India level during the year 2016 followed by Assam (131.3), Odisha (84.5), Telangana (83.7) and Rajasthan (78.3). Uttar Pradesh–India’s most populous state reported the most (15%) crimes against women in 2016, 49,262, or six every hour. Uttar Pradesh was followed by West Bengal (32,513), Maharashtra (31,388), Rajasthan (27,422) and Madhya Pradesh (26,604).¹

¹Available at <https://www.indiaspend.com/crime-against-women-up-83-conviction-rate-hits-decadallow-18239/> visited on June5,2018

*Recounting Experiences Lived Realities of Women Survivors of
Acid Violence Working in Sheroes Cafés of Uttar Pradesh*

Crime against Women According To Press Note Release of “Crime in India 2016 –Statistics”²:

Crime Head	Crime Incidence			Crime Rate			Percentage Variation	
	2014	2015	2016	2014	2015	2016	2014 - 2015	2015 - 2016
Total Crime against Women	3,39,457	3,29,243	3,38,954	56.6	54.2	55.2	3.0%	2.9%

S. No.	Crime Head	Total Cases Reported	Major State/ UT during 2016		
1.	Acid Attack	206	West Bengal (54)	Uttar Pradesh (51)	Delhi (19)
2.	Cruelty by husband or his relatives	1,10,378	West Bengal (19,302)	Rajasthan (13,811)	Uttar Pradesh (11,156)
3.	Assault on women with intent to outrage her modesty	84,746	Maharashtra (11,396)	Uttar Pradesh (11,335)	Madhya Pradesh (8,717)
4.	Kidnapping & Abduction	64,519	Uttar Pradesh (12,994)	Maharashtra (6,170)	Bihar (5,496)
5.	Rape	38,947	Madhya Pradesh (4,882)	Uttar Pradesh (4,816)	Maharashtra (4,189)

- 1) Cases under Crime against Women have reported increase of 2.9% in 2016 over 2015. Majority of cases under crimes against women were reported under ‘Cruelty by Husband or His Relatives’ (32.6%) followed by

² Available at <http://ncrb.gov.in/StatPublications/CII/CII2016/Press%20release-Crime%20in%20India%202016.pdf> visited on June5,2018

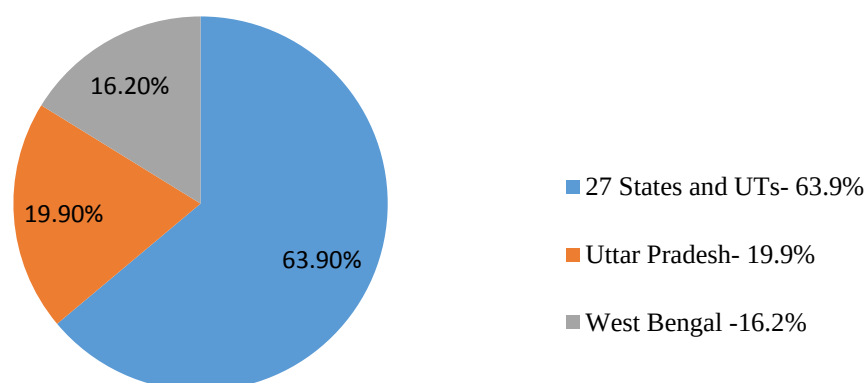
- ‘Assault on Women with Intent to Outrage her Modesty’ (25.0%), ‘Kidnaping & Abduction of Women’ (19.0%) and ‘Rape’ (11.5%).
- 2) Uttar Pradesh reported 14.5% (49,262) of total cases of crimes against women followed by West Bengal (9.6%) (32,513 cases) during 2016. Delhi UT reported the highest crime rate (160.4) compared to the national average rate of 55.2.
- 3) Rape cases have reported increase of 12.4% from 34,651 cases in 2015 to 38,947 in 2016. Madhya Pradesh and Uttar Pradesh reported the highest incidence of Rape with 4,882 cases (12.5%) and 4,816 (12.4%) followed by Maharashtra 4,189 (10.7%) during 2016.³

According to the National Crime Records Bureau, a total of 206 acid attacks and attempts to acid attacks were reported in the country that claimed a total of 225 victims in the year 2016. The numbers went down from the previous years, i.e., 2014 and 2015 when there were 255 and 268 reported incidents of acid attacks and attempts to acid attack claiming 277 and 295 victims respectively. Out of the 206 incidents reported in 2016, the second highest numbers of cases were reported from Uttar Pradesh, amounting to a total number of 51 cases claiming 52 victims. West Bengal registered the highest number of acid attacks in the year 2016 with 54 reported incidents claiming 60 victims. In the year 2015, the number of reported incidents of acid attacks and attempts of acid attack amount to 66, claiming 72 victims in Uttar Pradesh. In 2014, the numbers in Uttar Pradesh for acid attack and attempts to acid attack were 55 claiming 56 victims. West Bengal came a close second in both these years. Uttar Pradesh has steadily been ranked among the states with the highest number of acid attack for the three years, 2014-2016. To further visualize what this means for the magnitude of the crime in the state, a graphical representation is given below.⁴

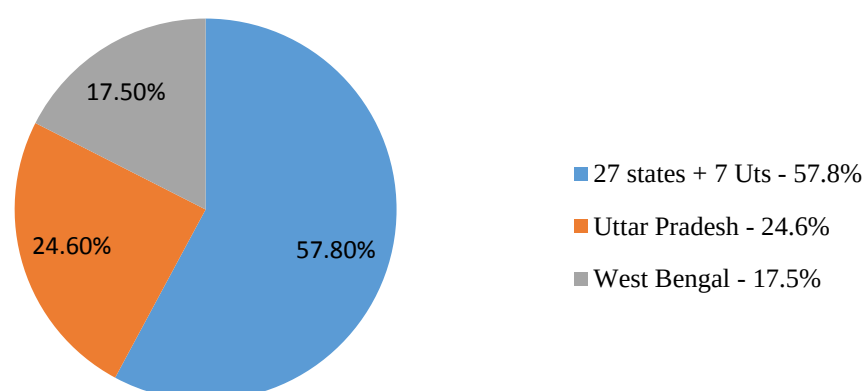
³ Ibid

⁴ Available at: www.aalilegal.org visited on 13 June 2019

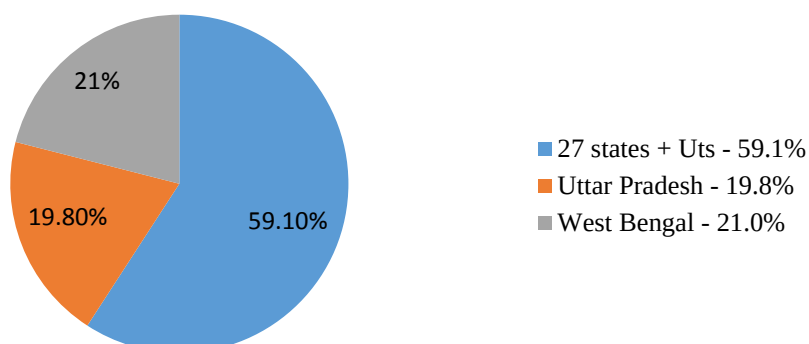
Total percentage of reported incidents of Acid Attacks and attempts to Acid Attack in 2014



Total percentage of reported incidents of acid attacks and attempts to acid attacks in 2015



Total percentage of reported incidents of acid attacks and attempts to Acid Attack In 2016



Recounting Experiences Lived Realities of Women Survivors of Acid Violence Working in Sheroes Cafés of Uttar Pradesh

Acid attack against women increased day by day to verify this statement the comparative description given below is remarkable:

Table 6.1: Acid Attack on Women Reported During 2011- 2013 all over India

Sr. No	States/Uts	2011					2012					2013				
		CR	WMV	CS	PAR	PCS	CR	WMV	CS	PAR	PCS	CR	WMV	CS	PAR	PCS
1	Andhra Pradesh	8	8	5	10	9	6	6	4	5	4	NA	NA	NA	NA	NA
2	Arunachal Pradesh	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3	Assam	0	0	0	0	0	1	4	0	6	0	1	3	0	3	0
4	Bihar	3	7	3	7	7	10	12	10	17	16	NA	NA	NA	NA	NA
5	Chhattisgarh	1	1	1	1	1	3	3	4	3	6	2	5	2	2	2
6	Goa	0	0	0	0	0	1	2	1	1	1	NA	NA	NA	NA	NA
7	Gujarat	2	2	2	5	5	4	5	4	6	6	10	13	10	15	15
8	Haryana	8	10	8	31	31	6	8	5	15	15	3	5	1	2	1
9	Himanchal Pradesh	0	0	0	0	0	0	0	0	0	1	1	1	1	1	1
10	Jammu & Kashmir	2	2	2	3	3	3	3	2	2	2	2	2	-	4	-
11	Jharkhand	1	2	1	2	2	2	3	2	5	5	NA	NA	NA	NA	NA
12	Karnataka	3	3	3	3	3	2	2	2	2	2	4	4	4	9	9
13	Kerala	1	1	1	2	2	2	2	0	2	0	3	3	1	2	1
14	Madhya Pradesh	5	5	4	5	5	6	7	6	9	9	6	8	6	10	10
15	Maharashtra	6	7	4	8	8	3	3	3	3	3	7	8	4	5	4
16	Manipur	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
17	Meghalaya	1	1	1	0	1	0	0	0	0	0	NA	NA	NA	NA	NA
18	Mezoram	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
19	Nagaland	0	0	0	0	0	0	0	0	0	0	1	1	1	1	1
20	Odisha	1	1	1	1	1	2	3	1	7	7	NA	NA	NA	NA	NA
21	Punjab	9	10	8	12	12	4	4	1	10	3	10	10	4	14	13
22	Rajasthan	3	4	3	4	4	5	5	5	6	6	NA	NA	NA	NA	NA
23	Sikkim	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
24	Tamilnadu	0	0	0	0	0	1	1	0	1	0	NA	NA	NA	NA	NA
25	Tripura	0	0	0	0	0	1	1	1	1	1	0	0	0	0	0
26	Uttar Pradesh	14	18	13	17	17	11	15	11	18	18	NA	NA	NA	NA	NA
27	Uttarakhand	2	2	1	1	1	3	3	2	2	2	NA	NA	NA	NA	NA
28	West Bengal	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Total States		70	84	61	112	112	76	92	64	121	106	50	63	34	68	57
Sr. No	States/Uts	2011					2012					2013				
		CR	WMV	CS	PAR	PCS	CR	WMV	CS	PAR	CR	CR	WMV	CS	PAR	PCS
1	Andaman & Nicobar Islands	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2	Chandigarh	1	2	1	2	2	0	0	0	0	0	1	1	1	1	1
3	Dadra & Nagar Haveli	0	0	0	0	0	0	0	0	0	0	NA	NA	NA	NA	NA
4	Daman & Diu	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5	Delhi	12	12	8	8	8	8	8	7	10	10	15	16	6	13	10
6	Lakshadweep	0	0	0	0	0	0	0	0	0	0	NA	NA	NA	NA	NA
7	Puducherry	0	0	0	0	0	1	1	1	1	1	0	0	0	0	0
Total UT (s)		13	14	9	10	10	9	9	8	11	11	16	17	7	14	11
Total All India		83	98	70	122	122	85	101	72	132	117	66	80	41	82	68

Cases registered (CR), Women victim (WMV), cases chargesheeted (CS), Persons arrested (PAR), persons charge sheeted (PCS)

Sources: Lok Sabha report¹

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With the criminal law amendment Act, 2013, incidents of acid attacks are now being recorded as a separate offence under section 326 A and 326 B. Prior to the amendment, the cases are recorded under the crime of hurt, grievous hurt, grievous hurt by corrosive substance, murder, attempt to murder under Indian Penal Code. The first data available after amendment relate to the year 2014.

Table 6.2: Acid Attack on Women Reported During 2014 all over India

Sr. No	States/Uts	Acid Attack (Section 326 A IPC)			Attempt to Acid Attack (Section 326 B IPC)		
		I	V	R	I	V	R
1	Andhra Pradesh	5	6	0	3	3	0
2	Arunachal Pradesh	0	0	0	0	0	0
3	Assam	0	0	0	0	0	0
4	Bihar	4	4	0	0	0	0
5	Chhattisgarh	1	1	0	0	0	0
6	Goa	0	0	0	0	0	0
7	Gujrat	6	6	0	4	4	0
8	Haryana	12	13	0	3	3	0
9	Himanchal Pradesh	1	1	0	0	0	0
10	Jammu & Kashmir	2	2	0	0	0	0
11	Jharkhand	2	3	0	3	3	0
12	Karnataka	3	3	0	2	2	0
13	Kerala	4	4	0	1	1	0
14	Madhya Pradesh	14	20	0	2	2	0
15	Maharashtra	5	5	0	2	2	0
16	Manipur	0	0	0	0	0	0
17	Meghalaya	0	0	0	0	0	0
18	Mezoram	0	0	0	0	0	0
19	Nagaland	0	0	0	0	0	0
20	Odisha	9	10	0	3	3	0
21	Punjab	15	17	0.1	2	2	0
22	Rajasthan	6	6	0	0	0	0
23	Sikkim	2	2	0.3	0	0	0
24	Tamilnadu	6	13	0	0	0	0
25	Telangana	1	1	0	0	0	0
26	Tripura	4	4	0.1	0	0	0
27	Uttar Pradesh	42	43	0	13	13	0
28	Uttarakhand	0	0	0	0	0	0
29	West Bengal	39	41	0	4	4	0
	Total State(s)	183	205	0	41	41	0
30	Andaman & Nicobar islands	0	0	0	0	0	0
31	Chandigarh	0	0	0	0	0	0
32	Dadra & Nagar Haveli	0	0	0	0	0	0
33	Daman & Diu	0	0	0	0	0	0
34	Delhi	20	20	0.1	11	11	0.1
35	Lakshadweep	0	0	0	0	0	0
36	Puducherry	0	0	0	0	0	0
	Total UT (s)	20	20	0.1	11	11	0
	Total (All India)	203	225	0	52	52	0

Cases registered (I), victims (V), rate of crime (R).

Source: Crime in India statistics 2014⁵

⁵ Available at <http://ncrb.nic.in/statpublications/CII/CII2014/statistics%202014.pdf>, (visited on March 14, 2019).

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Table 6.3: Acid Attack on Women Reported During 2015 all over India

Sr. No	States/Uts	Acid Attack (Section 326 A IPC)			Attempt to Acid Attack (Section 326 B IPC)		
		I	V	R	I	V	R
1	Andhra Pradesh	14	6	0	6	6	0
2	Arunachal Pradesh	0	0	0	0	0	0
3	Assam	3	3	0	0	0	0
4	Bihar	15	19	0	4	4	0
5	Chhattisgarh	0	0	0	0	0	0
6	Goa	0	0	0	0	0	0
7	Gujrat	4	4	0	0	0	0
8	Haryana	10	12	0	1	1	0
9	Himanchal Pradesh	1	1	0	0	0	0
10	Jammu & Kashmir	2	2	0	0	0	0
11	Jharkhand	0	0	0	0	0	0
12	Karnataka	2	2	0	0	0	0
13	Kerala	7	10	0	1	1	0
14	Madhya Pradesh	14	19	0	2	2	0
15	Maharashtra	7	8	0	0	0	0
16	Manipur	1	1	0	0	0	0
17	Meghalaya	0	0	0	0	0	0
18	Mezoram	0	0	0	0	0	0
19	Nagaland	0	0	0	0	0	0
20	Odisha	8	8	0	2	2	0
21	Punjab	5	7	0	3	3	0
22	Rajasthan	1	1	0	0	0	0
23	Sikkim	0	0	0	0	0	0
24	Tamilnadu	8	10	0	0	0	0
25	Telgana	1	1	0	0	0	0
26	Tripura	4	4	0.1	0	0	0
27	Uttar Pradesh	55	61	0	11	11	0
28	Uttarakhand	0	0	0	0	0	0
29	West Bengal	39	41	0	8	8	0
	Total State(s)	201	228	0	38	38	0
30	Andaman & Nicobar Islands	0	0	0	0	0	0
31	Chandigarh	0	0	0	0	0	0
32	Dadra & Nagar Haveli	0	0	0	0	0	0
33	Daman & Diu	0	0	0	0	0	0
34	Delhi	21	21	0.1	8	8	
35	Lakshadweep	0	0	0	0	0	0
36	Puducherry	0	0	0	0	0	0
	Total UT (s)	21	21	0.1	8	8	0
	Total (All India)	222	249	0	46	46	0

Cases registered (I), victims (V), rate of crime (R).

Source: Crime in India statistics 2015⁶

⁶Available at http://ncrb.nic.in/statpublications/CII/CII2015/FILES/statistics-2015_rev1_1pdf, (visited on March 14, 2019).

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Table 6.4: Acid Attack on Women Reported During 2016 all over India

Sr. No	States/Uts	Acid Attack (Section 326 A IPC), Attempt to Acid Attack (Section 326 B IPC)		
		I	V	R
		15	16	17
1	Andhra Pradesh	9	9	0.0
2	Arunachal Pradesh	0	0	0.0
3	Assam	9	9	0.1
4	Bihar	2	2	0.0
5	Chhattisgarh	0	0	0.0
6	Goa	1	2	0.1
7	Gujrat	9	9	0.0
8	Haryana	11	11	0.1
9	Himanchal Pradesh	0	0	0.0
10	Jammu & Kashmir	0	0	0.0
11	Jharkhand	0	0	0.0
12	Karnataka	4	4	0.0
13	Kerala	9	9	0.0
14	Madhya Pradesh	4	4	0.0
15	Maharashtra	2	2	0.0
16	Manipur	0	0	0.0
17	Meghalaya	0	0	0.0
18	Mezoram	0	0	0.0
19	Nagaland	0	0	0.0
20	Odisha	12	12	0.1
21	Punjab	6	13	0.0
22	Rajasthan	2	2	0.0
23	Sikkim	0	0	0.0
24	Tamilnadu	1	1	0.0
25	Telgana	0	0	0.0
26	Tripura	1	1	0.1
27	Uttar Pradesh	51	52	0.0
28	Uttarakhand	0	0	0.0
29	West Bengal	54	60	0.1
	Total State(s)	187	202	0.0
30	Andaman & Nicobar Islands	0	0	0.0
31	Chandigarh	0	0	0.0
32	Dadra & Nagar Haveli	0	0	0.0
33	Daman & Diu	0	0	0.0
34	Delhi	19	23	0.2
35	Lakshadweep	0	0	0.0
36	Puducherry	0	0	0.0
	Total UT (s)	19	23	0.2
	Total (All India)	206	225	0.0

Case Registered (I), Victims (V), Rate of Crime (R).

Source: Crime in India (Statistics), 2016⁷

⁷Available at: <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/Crime%20Statistics%20-%202016.pdf> (visited on August 16, 2019).

The tables 6.1, 6.2, 6.3 and 6.4 show the data of acid attacks in India from the year 2011 to 2016. The data clearly shows that the incidents of acid attacks in India are on the rise. According to the data, the numbers of cases registered are increased approximately by 1% in 2012 as compared to 2011. However, there was a decrease of about 15% in the year 2013 over 2012. But again an increasing trend in the cases of acid attacks has been observed during 2014 and 2015. The number of cases registered straight increased to 203 in 2014 and 222 in 2015 which shows a drastic increase of such heinous crime. Again there was a decrease of about 7.2% in the year 2016 over 2015.

Figure 6.1 Number of cases registered-all over India

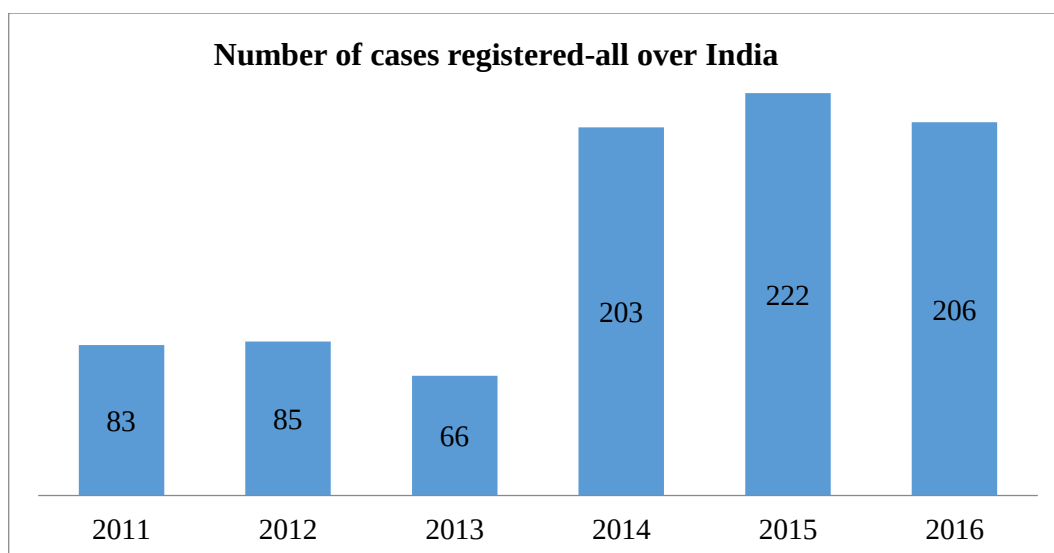


Figure 6.2 Number of victims all over India



Figure 6.1 and 6.2 indicates the number of cases registered all over India and number of victims of acid attacks all over India from 2011 to 2016. These figures are shows the data according to table 6.1, table 6.2, 6.3 and table 6.4. Researcher has also collected the data regarding juveniles who were involved in the crime of acid attacks and apprehended under Indian penal code and other legislative provisions. A Juvenile is a person who is below the age of at which criminal prosecution is possible. Juvenile justice (care and protection of children) Act 2015 has been passed by Parliament of India with aims to replace the exciting Indian Juvenile delinquency law, Juvenile justice (care and protection of children) Act, 2000, so that juveniles in conflict with law in the age group of 16-18, involved in heinous offences, can be tried as adults.⁸ According to the data the juveniles are also involved in the crime of acid attacks. Though the numbers of juveniles are very low but it is still alarming to be criminal at such a tender age.

Table 6.5 Juveniles Apprehended for the Crime of Acid Attack, By Age Groups & Sex during 2014-All Over India

Sr. No.	Crime Head	Age 16-18			All age group		
		Boy	Girl	Total	Boy	Girl	Total
1.	Acid attacks	0	0	0	2	0	2
2.	Attempts to acid attack	0	0	0	0	0	0

Source: crime in India (Statistics), 2014⁹.

⁸ Available at: <http://childinindia.org.in/Juvenile-Justice-care-and-Protection-of-Children-Act-2000.htm> (visited on June 13, 2019)

⁹ Supra note 5.

**Figure 6.3. Juveniles Apprehended for The Crime of Acid Attack, By Age
Groups & Sex During 2014-All Over India**

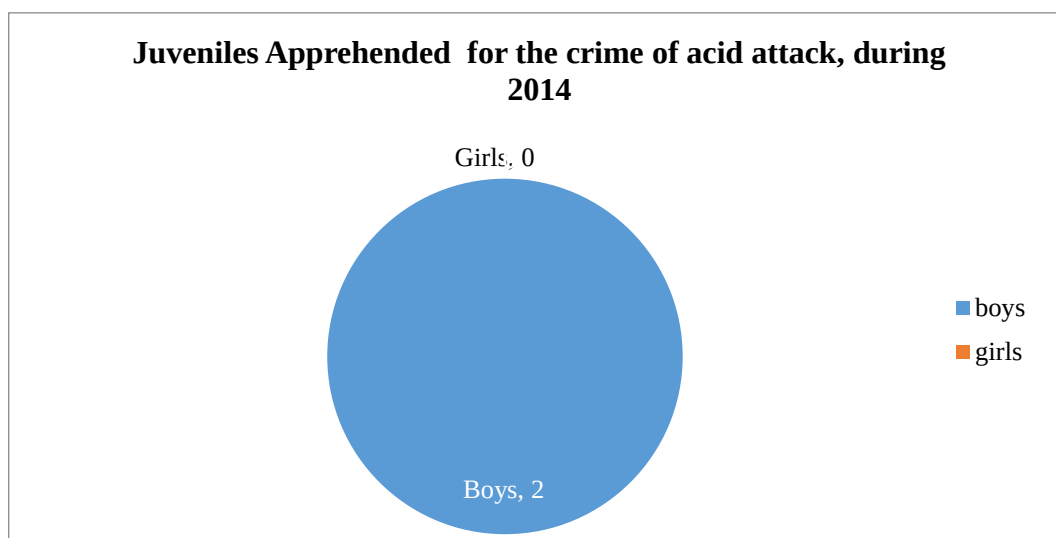
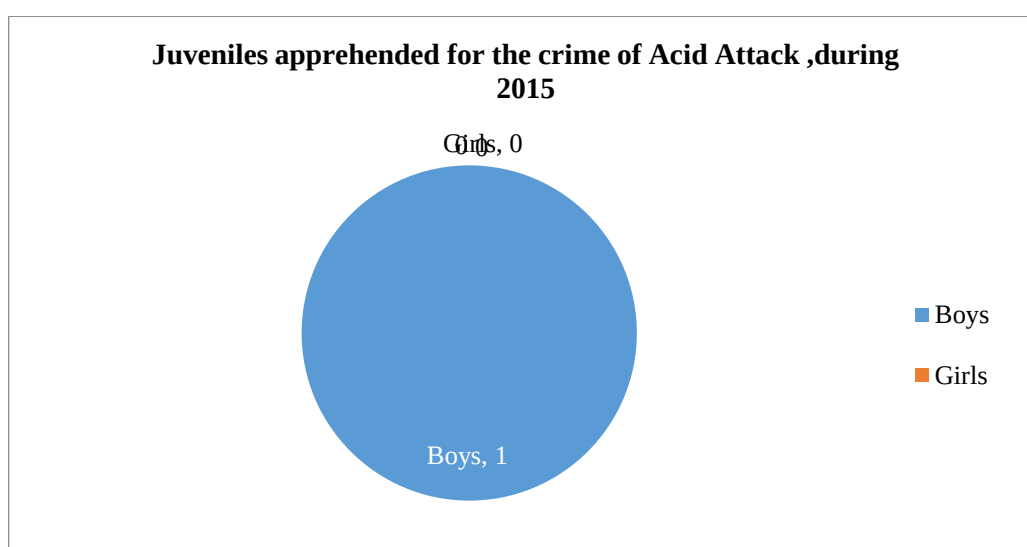


**Table 6.6. Juveniles Apprehended for the Crime of Acid Attack, By Age
Groups & Sex during 2015-All Over India**

Sr. No.	Crime Head	Age 16-18			All age group		
		Boy	Girl	Total	Boy	Girl	Total
1.	Acid attacks	1	0	1	1	0	1
2.	Attempts to acid attack	0	0	0	0	0	0

Source: crime in India (statistics), 2015¹⁰.

Figure 6.4. Juveniles apprehended for the crime of acid attack, during 2015



¹⁰ Supra note 6.

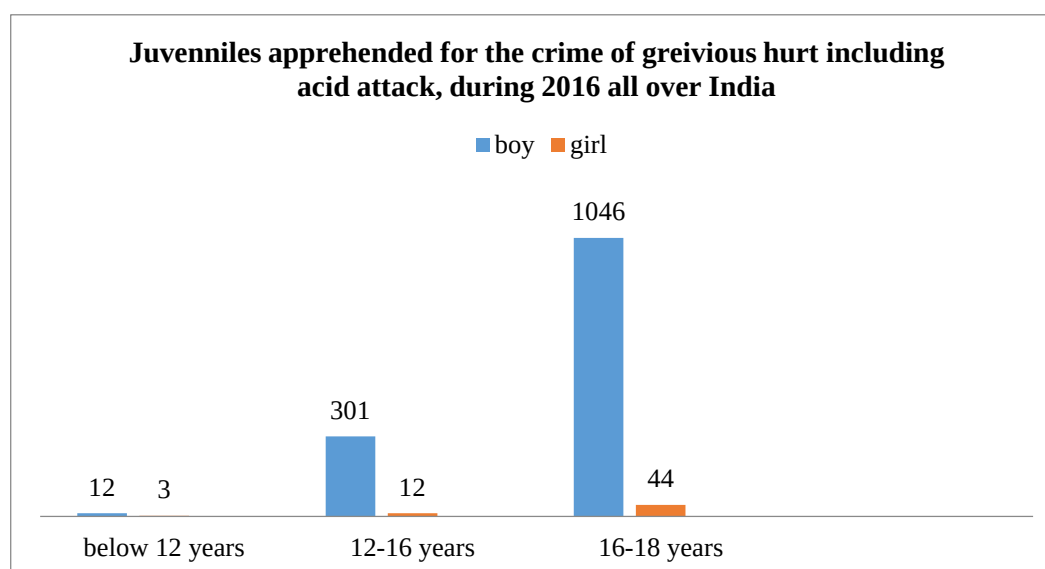
Table 6.7. Juveniles Apprehended for The Crime of Grievous Hurt (325, 326, 326A & 326 B IPC), By Age Groups & Sex during 2016-All Over India

Crime Head	Below 12 years			Age 12-16		
	Boy	Girl	Total	Boy	Girl	Total
Acid attacks and Attempts to acid attack	12	3	15	301	12	313

Crime Head	Age 16-18			All age group		
	Boy	Girl	Total	Boy	Girl	Total
Acid attacks and Attempts to acid attack	1046	44	1090	1359	59	1418

Source: Crime in India (Statistics), 2016¹¹.

Figure 6.5. Juveniles Apprehended for the Crime of Grievous Hurt (325, 326, 326A & 326 B IPC), By Age Groups & Sex during 2016-All Over India



According to the data the juveniles are also involved in the crime of acid attacks. Though numbers of juveniles are very low but it is still alarming to be criminal at such a tender age.

¹¹ Supra note 7.

Table 6.8 Age group and Gender wise persons arrested under Indian penal code and other legislations for the crime of Acid Attack, during 2014-all over India (Age 18-45 Years)

Sr. No.	Crime Head	Below 18 years			Age 18 years and above, below 30			Age 30 and above, below 45		
		Male	Female	Total	Boy	Girl	Total	Male	Female	Total
1.	Acid attacks	3	0	3	148	6	154	64	8	72
2.	Attempts to acid attack	0	0	0	36	0	36	18	0	18

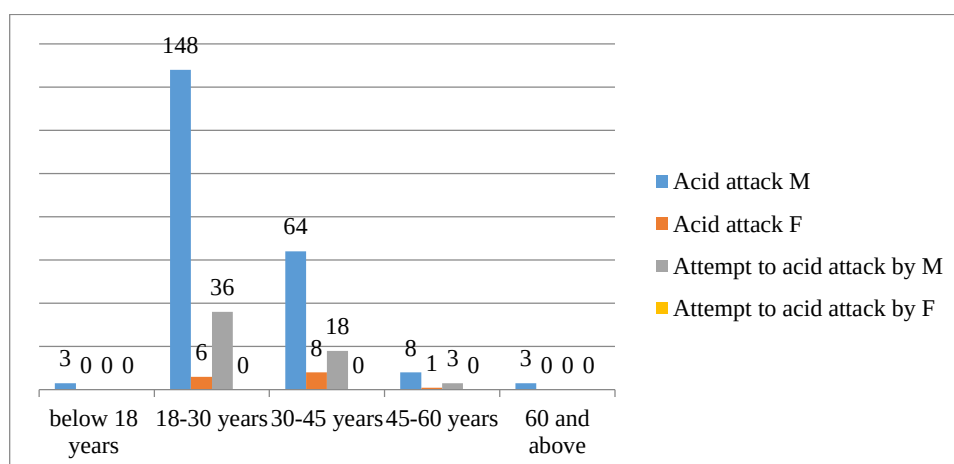
Source: crime in India (statistics), 2014¹².

Table 6.9 Age group and Gender wise persons arrested under Indian penal code and other legislations for the crime of Acid Attack, during 2014 all over India (Age 45-60 Years)

Sr. No.	Crime Head	Age 45 years and above, below 60			Age 60 years and above			Total of over all age		Total of male +female arrested (including juveniles)
		Male	Female	Total	Male	Female	Total	Male	Female	
1.	Acid attacks	8	1	9	3	0	3	226	15	241
2.	Attempt to acid attack	3	0	3	0	0	0	57	0	57

Source: crime in India (statistics), 2014¹³.

Figure 6.6. Age group and Gender wise persons arrested under Indian penal code and other legislations for the crime of Acid Attack, during 2014



¹² Supra note 5

¹³ Ibid.

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Figure 6.6. Indicates that in 2014 the perpetrators of the acid attacks were mainly male. The data clearly shows that 98% of the crimes of acid attacks were committed by men. According to the data mainly the age group of young people i.e. the age group of 18-30 and 30-45 commits this crime. The maximum acid attacks were committed by the age group of 18-30. Women perpetrators are hardly 2%.

**Table 6.10 Age group and Gender wise persons arrested under Indian penal code and other legislations for the crime of Acid Attack, during 2015
(Age 18-45 Years)**

Sr. No.	Crime Head	Below 18 years			Age 18 years and above, below 30			Age 30 and above, below 45		
		Male	Female	Total	Boy	Girl	Total	Male	Female	Total
1.	Acid attacks	1	0	1	185	11	196	86	10	96
2.	Attempts to acid attack	0	0	0	45	0	45	16	1	17

Source: crime in India (statistics), 2015¹⁴.

**Table 6.11. Age group and Gender wise persons arrested under Indian penal code and other legislations for the crime of Acid Attack, during 2015
(Age 45-60 Years)**

Sr. No.	Crime Head	Age 45 years and above, below 60			Age 60 years and above			Total of over all age		Total of male +female arrested (including juveniles)
		Male	Female	Total	Male	Female	Total	Male	Female	
1.	Acid attacks	10	2	12	0	0	0	282	23	305
2.	Attempt to acid attack	2	0	2	0	0	0	63	1	64

Source: crime in India (statistics), 2015¹⁵.

¹⁴ Sputa note 6.

**Figure 6.7. Age Group and Gender - wise Persons Arrested under IPC and
SLL Crimes during 2015 for the crime of acid attacks all over India**

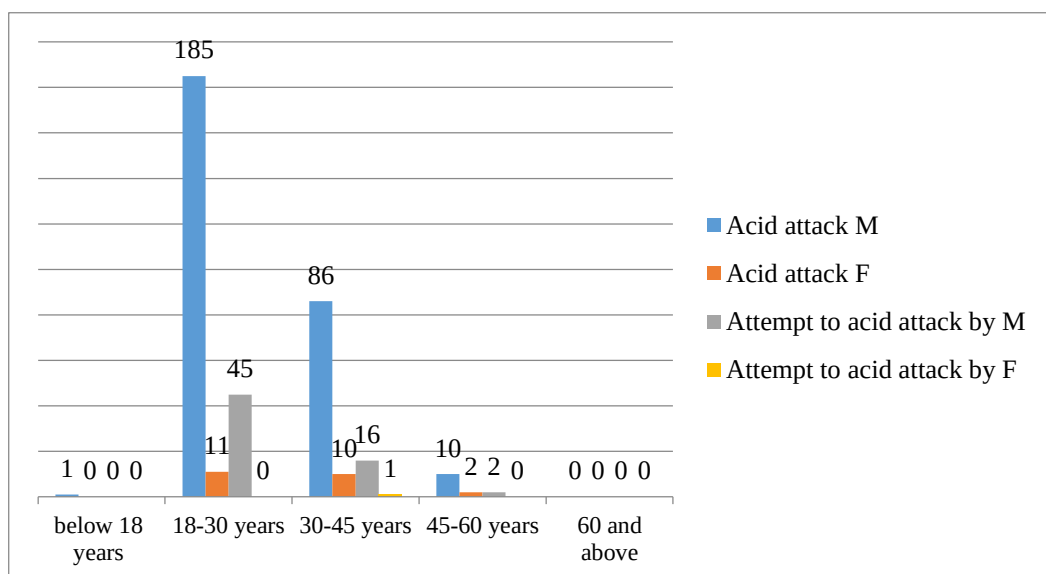


Figure 6.7 indicates that in 2015, the perpetrators are mainly the men and age group of young people i.e. between 18-30 and 30-45.

¹⁵ Ibid.

Table 6.12 Age group and Gender wise persons arrested under Indian penal code and other legislations for the crime of Acid Attack, during 2016 (Age 18-45 years)

Sr. No.	Crime Head	Below 18 years			Age 18 years and above, below 30			Age 30 and above, below 45		
		Male	Female	Total	Male	Female	Total	Male	Female	Total
1.	Acid attacks	0	0	0	113	6	119	96	2	98
2.	Attempts to acid attack	0	0	0	16	0	16	0	0	0

Source: Crime in India (statistics), 2016¹⁶.

Table 6.13 Age group and Gender wise persons arrested under Indian penal code and other legislations for the crime of Acid Attack, during 2016 (Age 45-60 years)

Sr. No.	Crime Head	Age 45 years and above, below 60			Age 60 years and above			Total of over all age		Total of male +female arrested (including juveniles)
		Male	Female	Total	Male	Female	Total	Male	Female	
1.	Acid attacks	0	0	0	0	0	0	209	8	217
2.	Attempt to acid attack	0	0	0	0	0	0	16	0	16

Source: Crime in India (statistics), 2016¹⁷.

¹⁶Supra note 7.

¹⁷ Ibid.

**Figure 6.8. Group and Gender - wise Persons Arrested under IPC and SLL
Crimes during 2016 for the crime of acid attacks all over India**

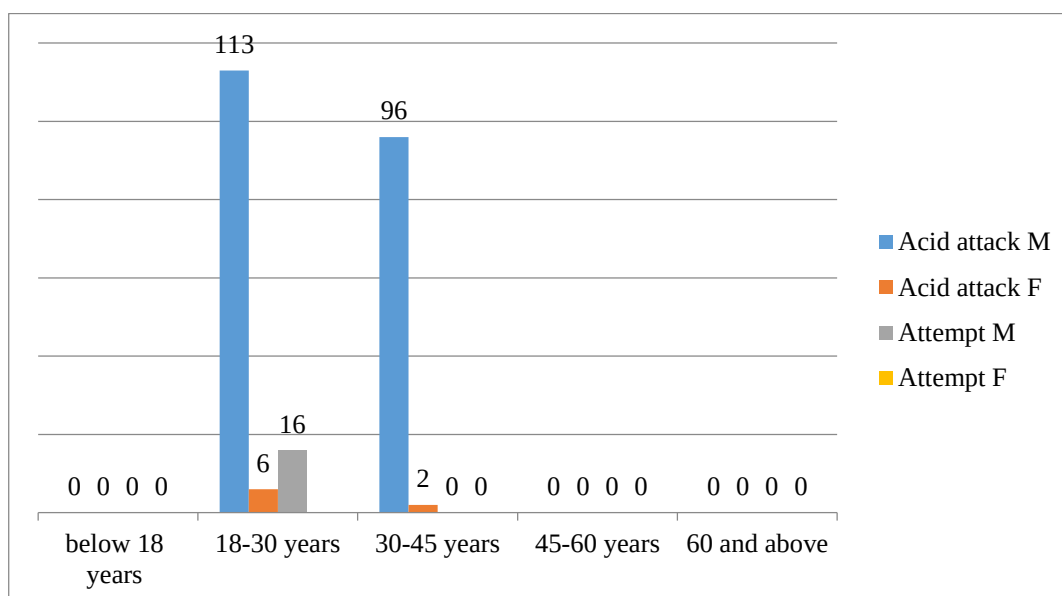


Figure 6.8 indicates that in 2016, the perpetrators are mainly the men and age group of young people i.e. between 18-30 and 30-45.

Disposal of cases of Acid Attacks:

**Table 6.14. Disposal of persons Arrested under Indian Penal Code by police
during 2014 all over India**

Sr. No.	Crime Head	Person Arrested During the year		Person released or freed by police or magistrate before trial for want of evidence or any other reason		Number of persons charge sheeted During the year	
		Male	Female	Male	Female	Male	Female
1.	Acid attacks	226	15	6	1	188	13
2.	Attempt to acid attack	57	0	3	0	38	0

Source: crime in India (Statistics), 2014¹⁸.

¹⁸ Supra note 5.

Figure 6.9. Persons Arrested for the crime of acid attack and attempt to acid attack during 2014 all over India

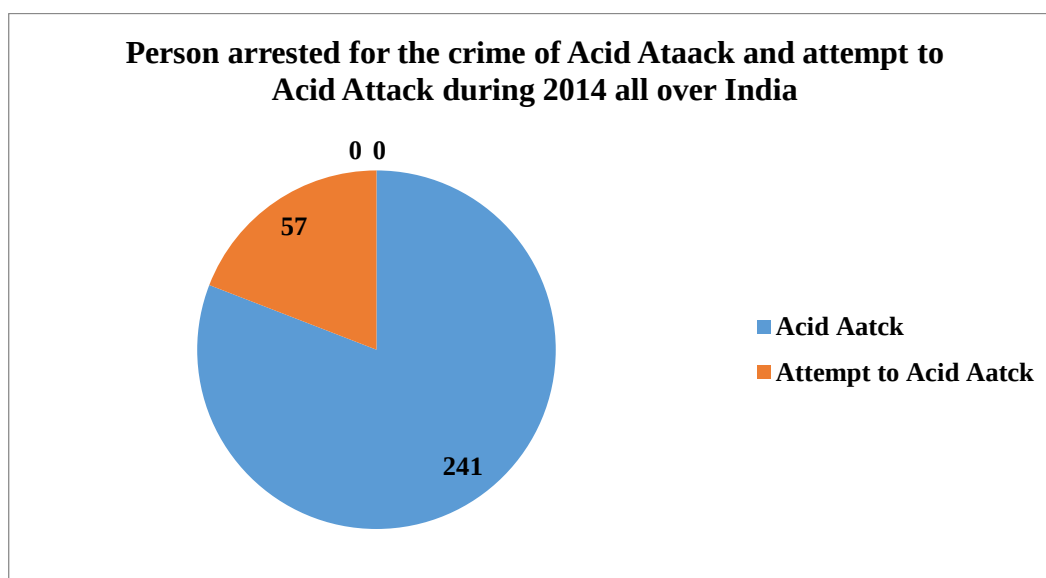


Figure 6.9. indicates the number of persons arrested for the crime of acid attack and attempt to acid attack. During 2014, 241 persons were arrested for the crime of acid attack and 57 persons were arrested for the crime of attempt to acid attack.

Figure 6.10. Person released by police or magistrate before trial during 2014 all over India

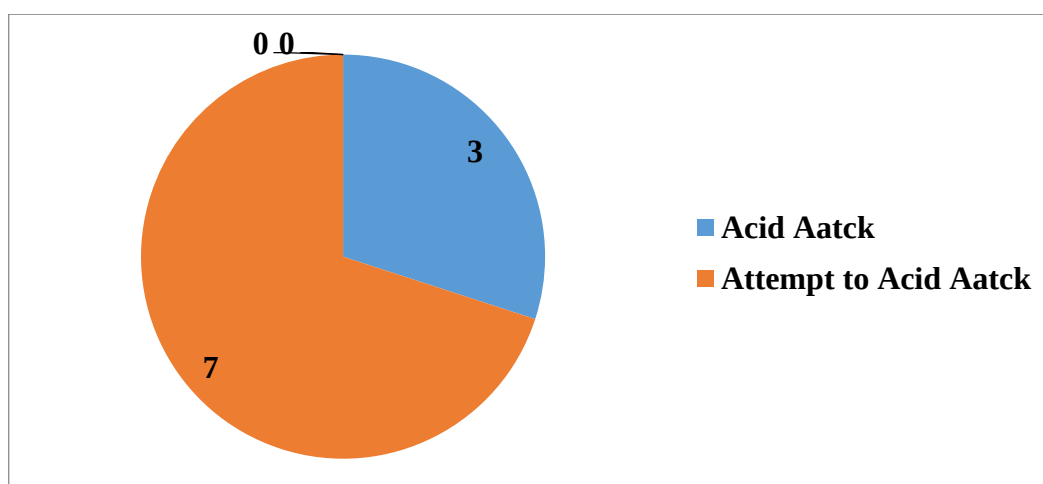


Figure 6.10. indicates the number of persons released by the police or magistrate for the crime of acid attack and attempt to acid attack. During 2014, seven persons were released on discharged from the crime of acid attack and 57 persons were released or discharged from the crime of attempt to acid attack.

**Figure 6.11. Person charge sheeted for the crime of acid attack during 2014
all over India**

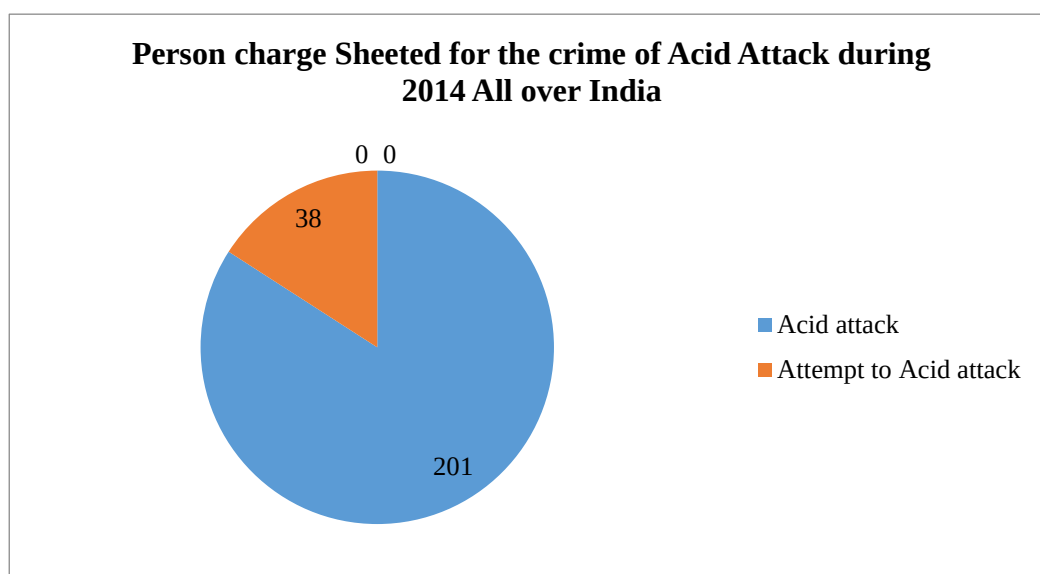


Figure 6.11. indicates the number of persons charge sheeted for the crime of acid attack and attempt to acid attack. During 2014, 201 persons were charge sheeted for the crime of acid attack and 38 persons were the crime of attempt to acid attack.

**Table 6.15. Disposal of persons arrested under Indian Penal Code crimes by
courts, during 2014-all over India**

Sr. No.	Crime Head	Person convicted		Person acquitted		Person discharged by court	
		Male	Female	Male	Female	Male	Female
1.	Acid attacks	18	0	34	11	5	3
2.	Attempt to acid attack	3	0	5	0	0	0

Source crime in India (Statistics), 2014¹⁹.

¹⁹ Ibid.

**Figure 6.12. Persons convicted for the crime of acid attack by courts during
2014 all over India**

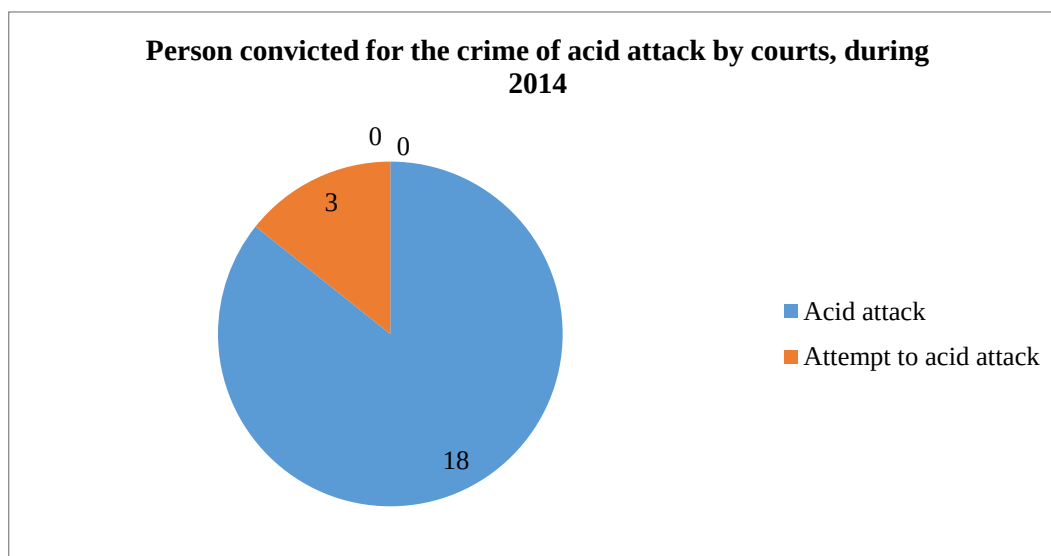


Figure 6.12. indicates the number of persons convicted for the crime of acid attack and attempt to acid attack. 18 persons were convicted for the crime of acid attack and three persons were convicted for the crime of attempt to acid attack.

**Figure 6.13. Persons acquitted for the crime of acid attack by courts during
2014 all over India**

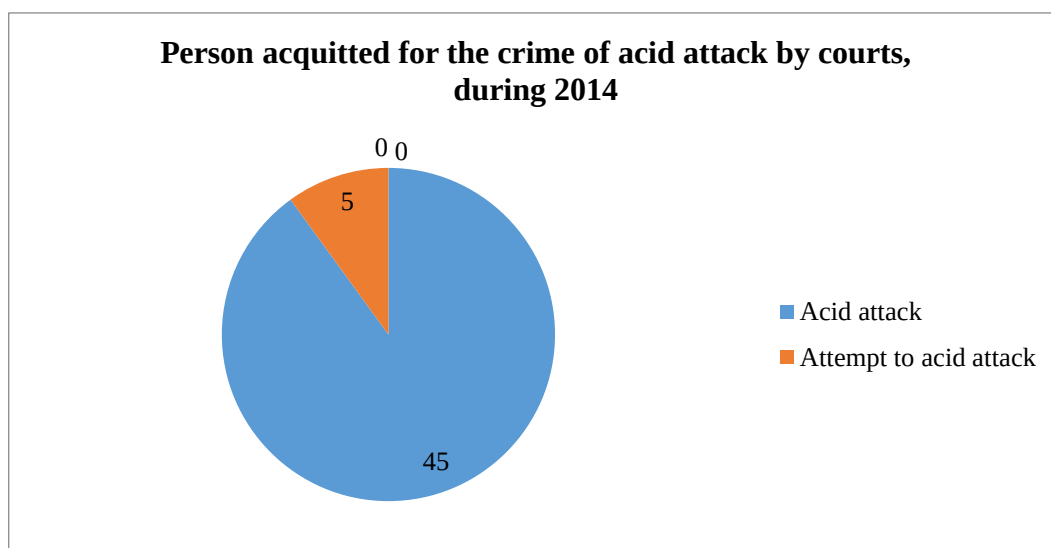


Figure 6.13. indicates the number of persons acquitted for the crime of acid attack and attempt to acid attack. During 2014, 45 persons acquitted from the crime of acid attack and 5 persons were acquitted from the crime of attempt to acid attack.

**Figure 6.14 Persons discharged for the crime of acid attack by courts during
2014 all over India**

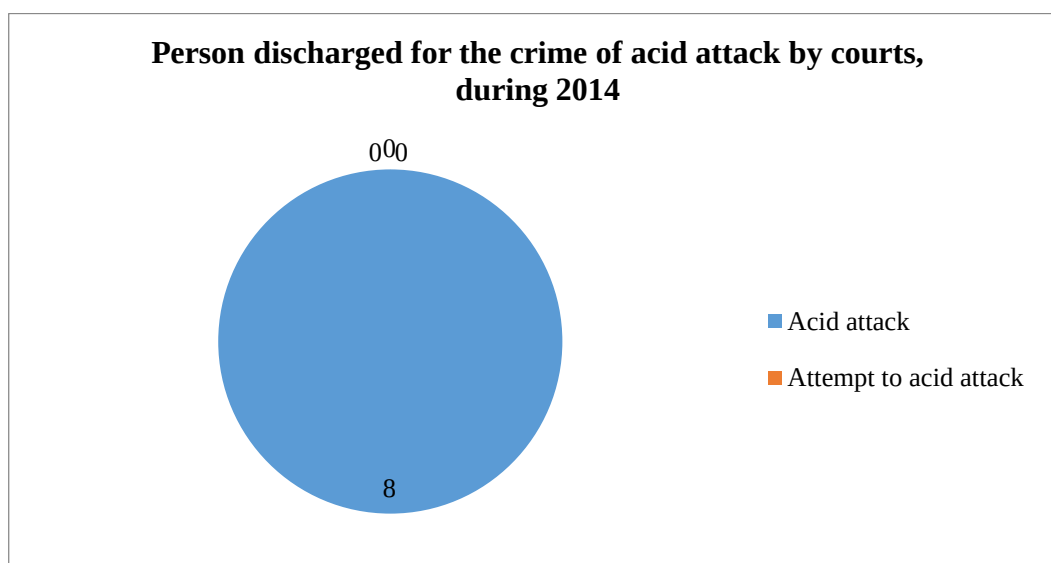


Figure 6.14. indicates the number of persons discharged by the courts for the crime of acid attack and attempt to acid attack. During 2014, 8 persons were discharged from the crime of acid attack by the courts.

**Table 6.16. Disposal of cases of Acid attacks and attempts to acid attacks by
courts during 2015 all over India**

Sr. No.	Crime Head	Pending trial from the Previous year	Cases sent for trial During the year	Total no. of cases for trial during the Year
1.	Acid attacks	488	175	663
2.	Attempt to Acid Attack	38	33	71

Source crime in India (Statistics), 2015²⁰.

²⁰ Supra note 6.

Figure 6.15. Disposal of cases of Acid attacks by courts during 2015 all over India

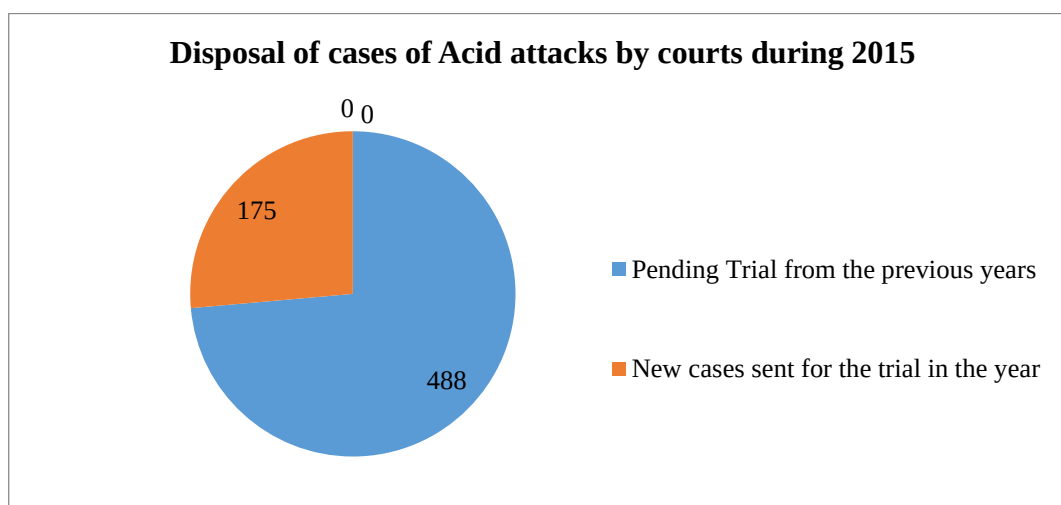


Figure 6.16. Disposal of cases of attempts to acid attacks by courts during 2015 all over India

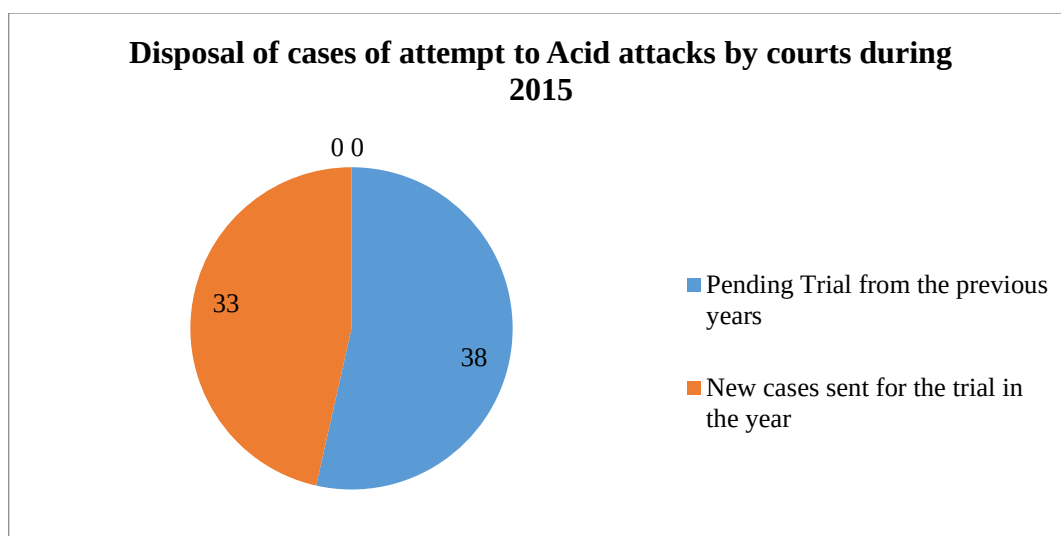


Figure 6.15 and 6.16 indicates the disposal of cases of acid attacks and attempt to acid attacks. Till 2015, 488 cases were pending in Indian courts under the crime head of acid attacks and 38 cases under the crime head of attempt to acid attacks. The new cases send for the trial during the year of 2015 were 175 for Acid attacks and 33 for the attempt to acid attacks. Thus the total numbers of the cases under the trial were 663 for Acid attacks and 71 for attempt to acid attacks.

Table 6.17 Disposal of Acid attack cases by courts during 2015 (Trials, Conviction, cases Acquitted or Discharges, pending trial, conviction Rate, pendency percentage) all over India

Sr. No.	Crime Head	Cases in which trials were completed	Cases convicted	Cases acquitted or discharged	Cases pending trial at the end of the year	Conviction rate	Cases pendency percentage
1.	Acid attacks	27	14	13	636	51.9	95.9
2.	Attempt to acid attack	6	1	5	65	16.7	91.5

Source crime in India (Statistics), 2015²¹.

Figure 6.17. Disposal of cases of Acid attacks and attempt to acid attack by courts (Trials, Conviction, cases Acquitted or Discharges, pending trial, conviction Rate, pendency percentage) during 2015 all over India

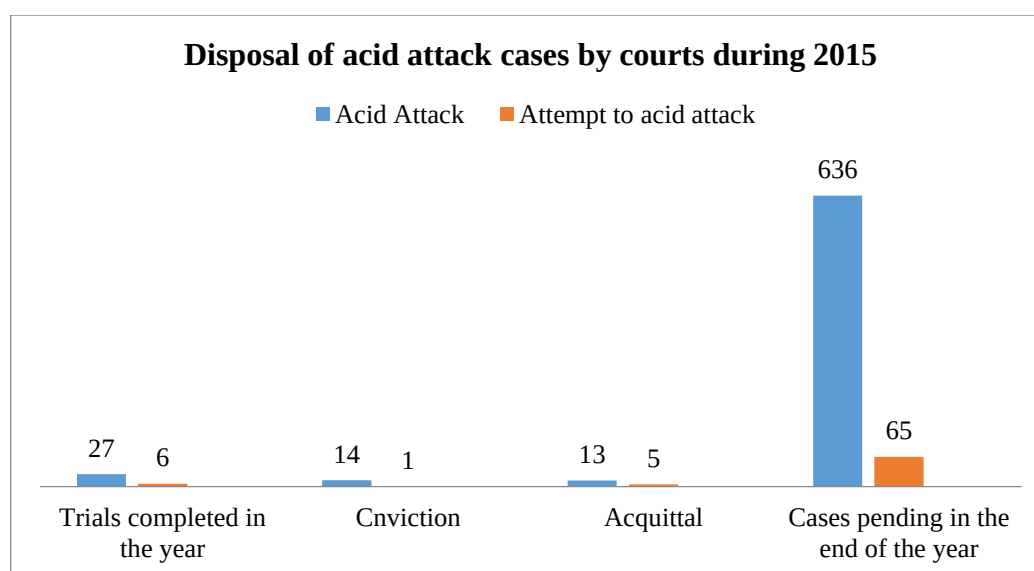


Figure 6.17 indicates the disposal of cases of acid attacks and attempt to acid attacks by courts (trials, conviction, acquittal, pending cases) during 2015 all over India 27 trials work completed for Acid attacks in the year 2015 out of which 14 (51.9%) were convicted and 13 were acquitted or discharged. In the same year 6 trials were completed out of which 1 person was convicted (16.7%) and 5 were acquitted or discharged. Thus in the end of the year 636 (95.9%) cases for Acid attacks and 65 (91.5%) cases for the attempt to acid attacks remained pending for trials.

²¹ Ibid.

Table 6.18. Disposal of persons arrested under Indian Penal Code crimes by police during 2015-all over India

Crime Head	Person Arrested During the year		Person released or freed by police or magistrate before trial for want of evidence or any other reason		Number of persons charge sheeted During the year	
	Male	Female	Male	Female	Male	Female
Acid attacks	282	23	20	0	227	16
Attempt to acid attack	63	1	4	0	45	0

Source crime in India (Statistics), 2015²².

Figure 6.18 Persons Arrested for the crime of acid attack and attempt to acid attack during 2015-all over India

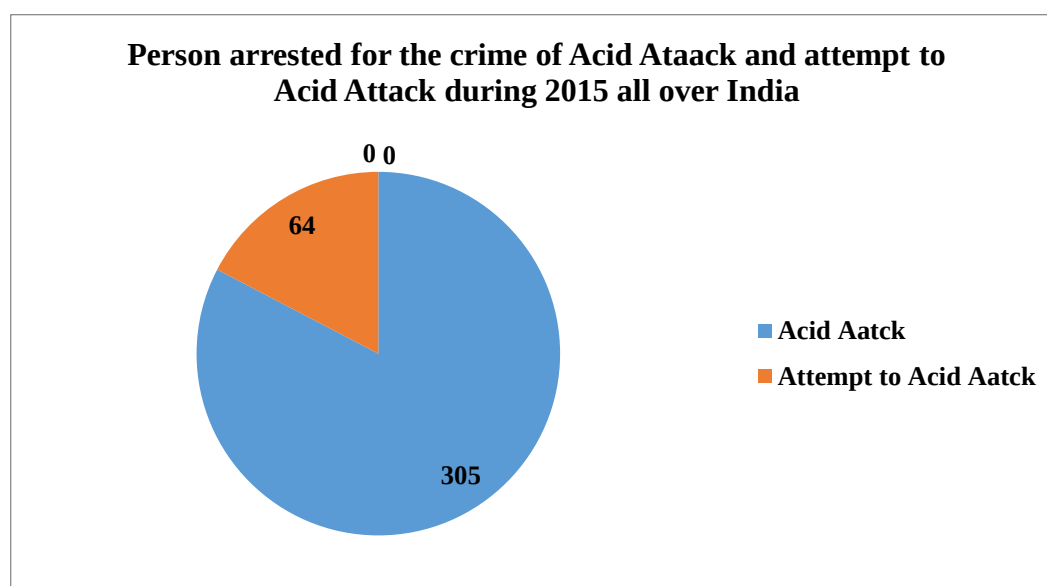


Figure 6.18 indicates the number of persons arrested for the crime of acid attack and attempt to acid attack. During 2015, 305 persons were arrested for the crime of acid attack and 64 persons were arrested for the crime of attempt to acid attack.

²² ibid

**Figure 6.19 Person released by police or magistrate before the trial during
2015 all over India**

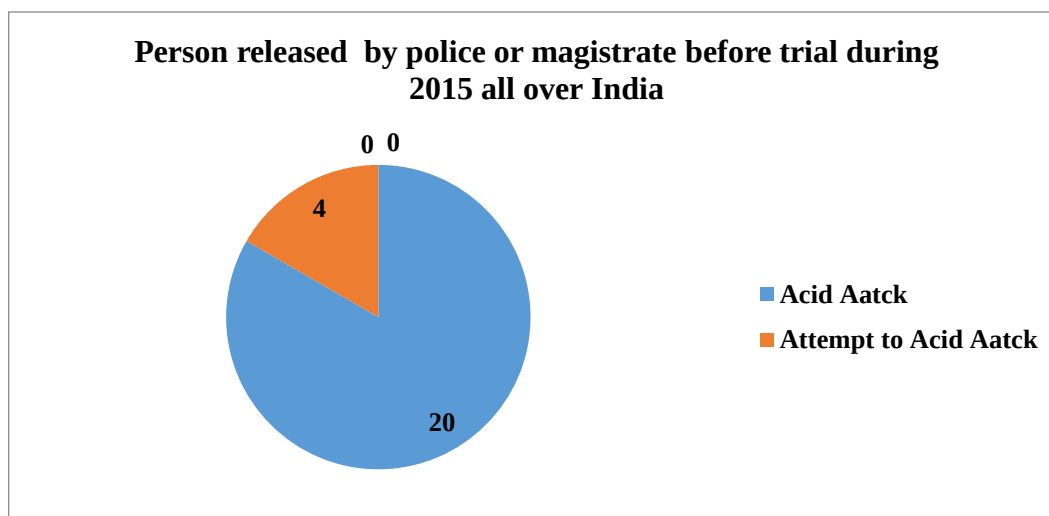


Figure 6.19 indicates the number of persons released or discharged from the crime of acid attack and attempt to acid attack by the police or magistrate. During 2015, 20 persons released or discharged for the crime of acid attack and 4 persons were discharged for attempt to acid attack.

**Figure 6.20 Persons charge-sheeted for the crime of acid attack and attempt
to acid attack during 2015-all over India**

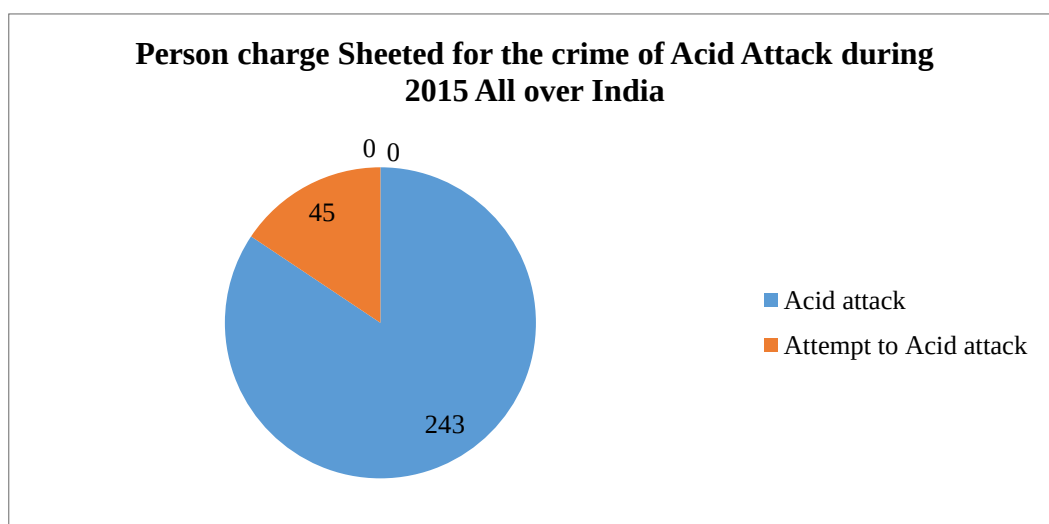


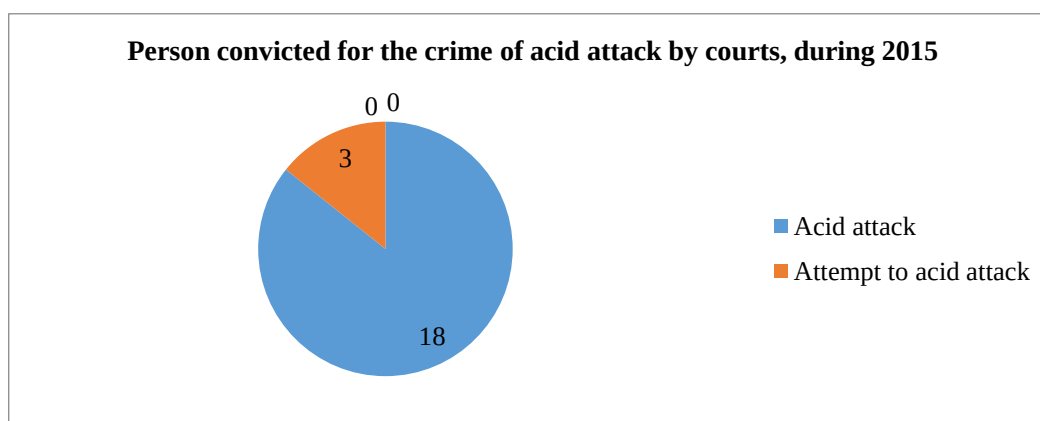
Figure 6.20 indicates the number of persons charge sheeted for the crime of acid attack and attempt to acid attack. During 2015, 243 persons were charge sheeted for the crime of acid attack and 45 persons were charge sheeted for attempt to acid attack.

Table 6.19. Disposal of persons arrested under Indian Penal Code crimes by courts, during 2015 all over India

Sr. No.	Crime Head	Person convicted		Person acquitted		Person discharged by court	
		Male	Female	Male	Female	Male	Female
1.	Acid attacks	18	0	16	0	0	0
2.	Attempt to acid attack	3	0	7	0	0	0

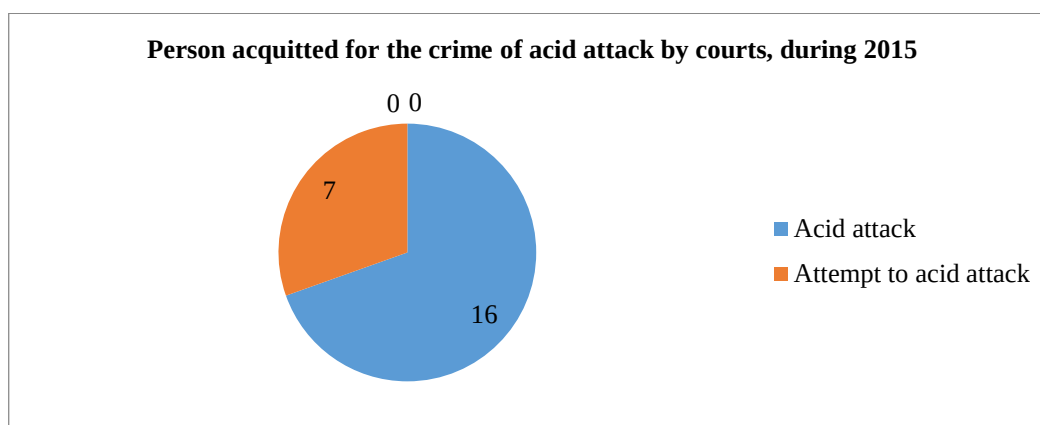
Source: Crime in India (Statistics), 2015.²³

Figure 6.21 Person convicted for the crime of acid attack by courts during 2015 all over India



Famous 6.21 indicates the number of persons convicted by the courts for the crime of acid attack and attempt to acid attack. During 2015, 18 persons were convicted by the courts for the crime of acid attack and 3 persons were convicted for attempt to acid attack.

Figure 6.22 Person acquitted for the crime of acid attack and attempt to acid attack by courts during 2015 all over India



²³ Ibid.

Figure 6.22 indicates the number of persons acquitted by the courts for the crime of acid attack and attempt to acid attack. During 2015, 16 persons were acquitted by the courts for the crime of acid attack and 7 persons were acquitted for attempt to acid attack. During 2015, no person was discharged by the courts for the crime of acid attack and for the attempt to acid attack.

Table 6.20. Disposal of cases of Acid attacks and attempts to acid attacks by courts during 2016 all over India

Crime Head	Pending trial from the Previous year	Cases sent for trial During the year	Total no. of cases for trial during the Year
Acid attacks and Attempt to Acid Attack	244	163	407

Source: Crime in India (Statistics), 2016.²⁴

Figure 6.23 Disposal of cases of Acid attacks and attempts to acid attacks by courts during 2016 all over India

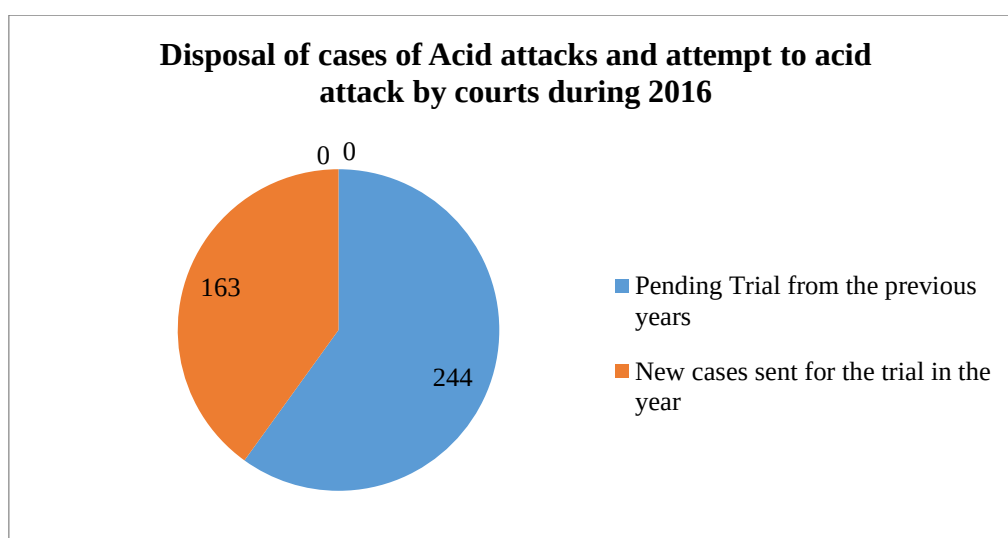


Figure 6.23. indicates the disposal of cases of acid attacks and attempt to acid attacks. Till 2016, 244 cases were pending in Indian courts under the crime head of acid attack attempt to acid attacks. The new cases send for the trial during the year of 2016 were 163 for Acid attacks and attempt to acid attacks. Thus the total numbers of the cases under the trial were 407 for Acid attacks and for attempt to acid attacks.

²⁴ Supra note 7.

Table 6.21. Disposal of Acid attack cases by courts during 2016 (Trials, Conviction, cases Acquitted or Discharges, pending trial, conviction Rate, pendency percentage) all over India

Crime Head	Cases in which trials were completed	Cases convicted	Cases acquitted or discharged	Cases pending trial at the end of the year	Conviction rate	Cases pendency percentage
Acid attacks and Attempt to acid attack	27	10	17	380	37.0	93.4

Source: Crime in India (Statistics), 2016²⁵

Figure 6.24. Disposal of Acid attack cases by courts during 2016 (Trials, Conviction, cases Acquitted or Discharges, pending trial, conviction Rate, pendency percentage) all over India

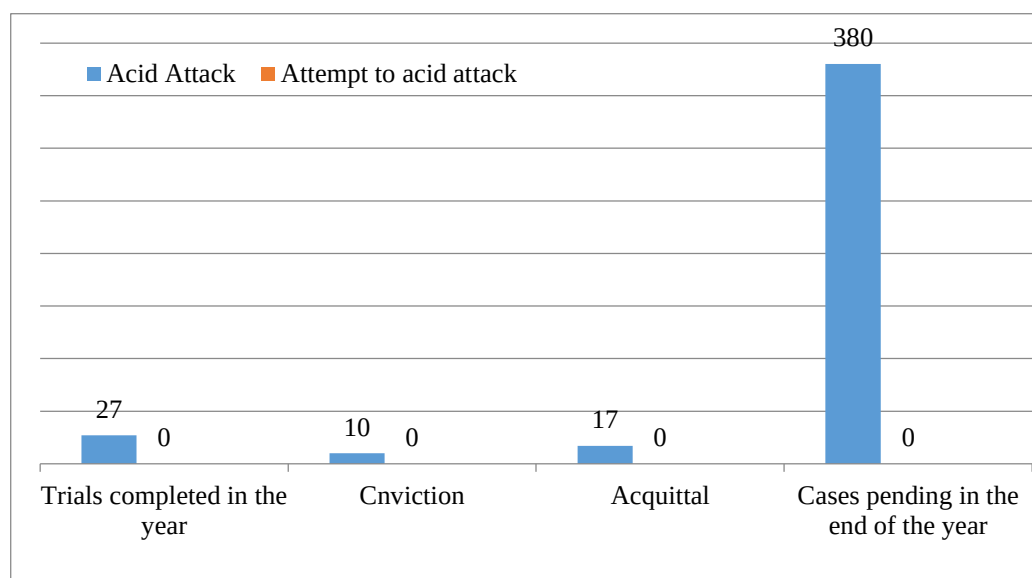


Figure 6.24 indicates the disposal of cases of acid attacks and attempt to acid attacks by courts (trials, conviction, acquittal, pending cases) during 2016 all over India 27 trials work completed for Acid attacks in the year 2016 out of which 10 (37.0%) were convicted and 17 were acquitted or discharged. Thus in the end of the year 380 (95.9%) cases for Acid attacks and attempt to acid attacks remained pending for trials.

²⁵ Ibid.

Table 6.22. Disposal of persons arrested under Indian Penal Code crimes by police, during 2016-all over India

Crime Head	Person Arrested During the year		Person released or freed by police or magistrate before trial for want of evidence or any other reason		Number of persons charge sheeted During the year	
	Male	Female	Male	Female	Male	Female
Acid attacks and Attempt to acid attack	225	8	21	0	205	6

Source: Crime in India (Statistics), 2016.²⁶

Figure 6.25. Disposal of persons arrested under Indian Penal Code crimes, by police during 2016-all over India

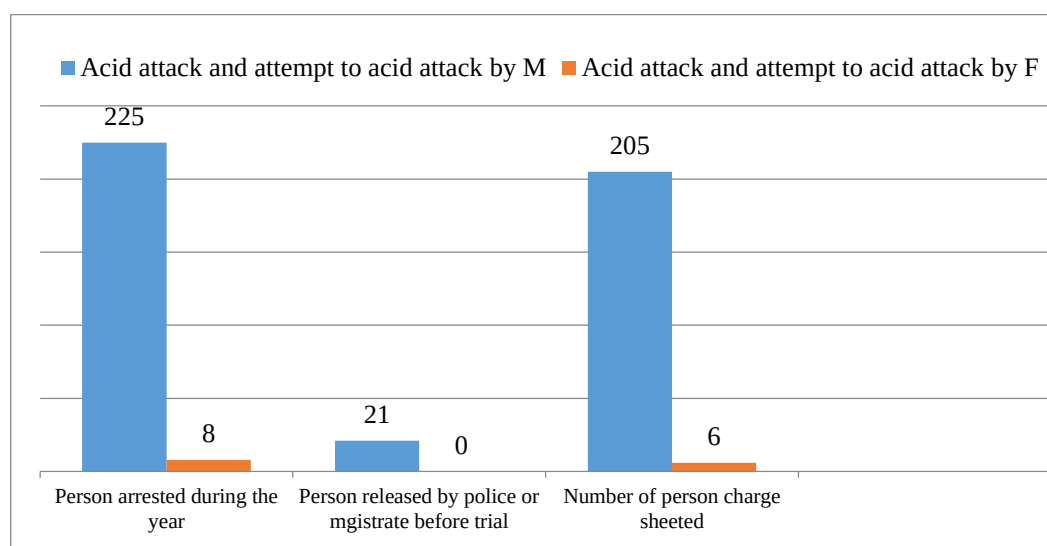


Figure 6.25 indicates the number of persons arrested for the crime of acid attack and attempt to acid attack. During 2016, 225 males and 8 females were arrested for the crime of acid attack and attempt to acid attack. Next bar indicates the number of persons released or discharged from the crime of acid attack and attempt to acid attack by the police or magistrate. During 2016, 21 males and no female released or discharged for the crime of acid attack and attempt to acid attack. Next bar indicates the number of persons charge sheeted for the crime of acid attack and attempt to acid attack. During 2016, 205 males and 6 females were charge sheeted for the crime of acid attack and attempt to acid attack.

²⁶ Ibid.

Table 6.23. Disposal of persons arrested under Indian Penal Code crimes by courts, during 2016-all over India

Crime Head	Person convicted		Person acquitted		Person discharged by court	
	Male	Female	Male	Female	Male	Female
Acid attacks and Attempt to acid attack	12	0	20	2	0	0

Source: Crime in India (Statistics), 2016.²⁷

Figure 6.26. Disposal of persons arrested under Indian Penal Code crimes by courts, during 2016-all over India

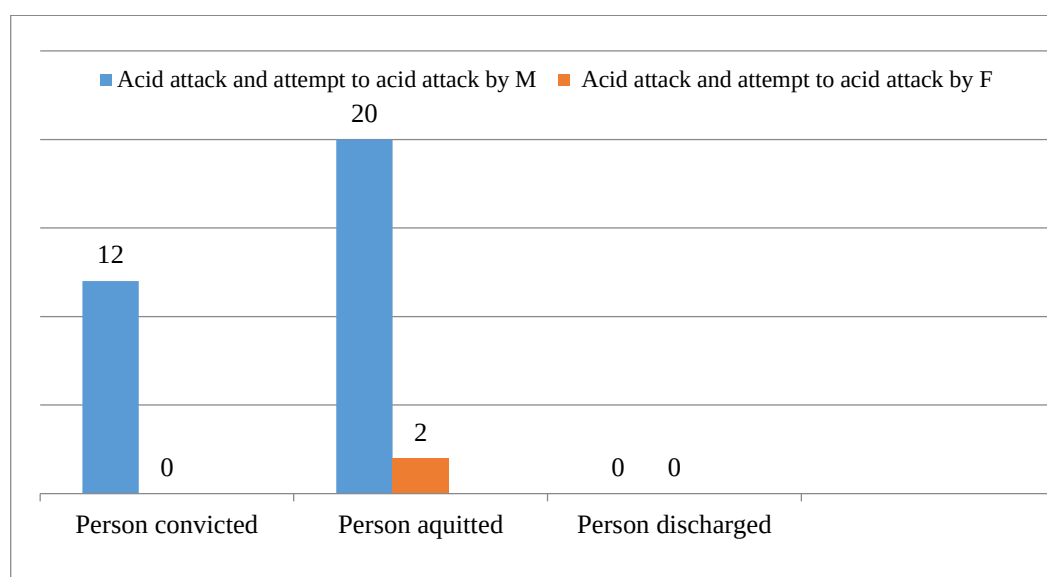


Figure 6.26. indicates the number of male and female convicted, acquitted and discharged by the courts for the crime of acid attack and attempt to acid attack. During 2016, 12 males and no female were convicted by the courts for the crime of acid attack and attempt to acid attack. During 2016, 22 males and 2 females were acquitted by the courts for the crime of acid attack and attempt to acid attack. During 2016, no person was discharged by the courts for the crime of acid attack and attempt to acid attack.

²⁷ Ibid.

6.2. Acid attacks in Uttar Pradesh

According to the National Crime Records Bureau a total of 206 acid attacks and attempts to acid attacks were reported in the country out of the 206 incidents reported in 2016, the second highest numbers of cases were reported from Uttar Pradesh, amounting to a total number of 51 cases claiming 52 victims.

In Uttar Pradesh 14 cases were reported out of 83 total cases all over India in 2011, which shows that the numbers of acid attacks are high in the state. In 2012, the numbers of such incidents were decreased to 11 but no data is available for the year 2013. Again the number increased to 55 in the year of 2014 and 66 in the year of 2015. Thus statistics from national crime record Bureau reflect an increase in the incidents of acid attacks in Uttar Pradesh. Figure 6.27 and 6.28 indicates the number of cases registered relating to acid attacks in Uttar Pradesh during 2011 to 2016 and number of victims of acid attacks in Uttar Pradesh respectively.

Figure 6.27. Number of cases relating to acid attacks registered in Uttar Pradesh, 2011- 2016

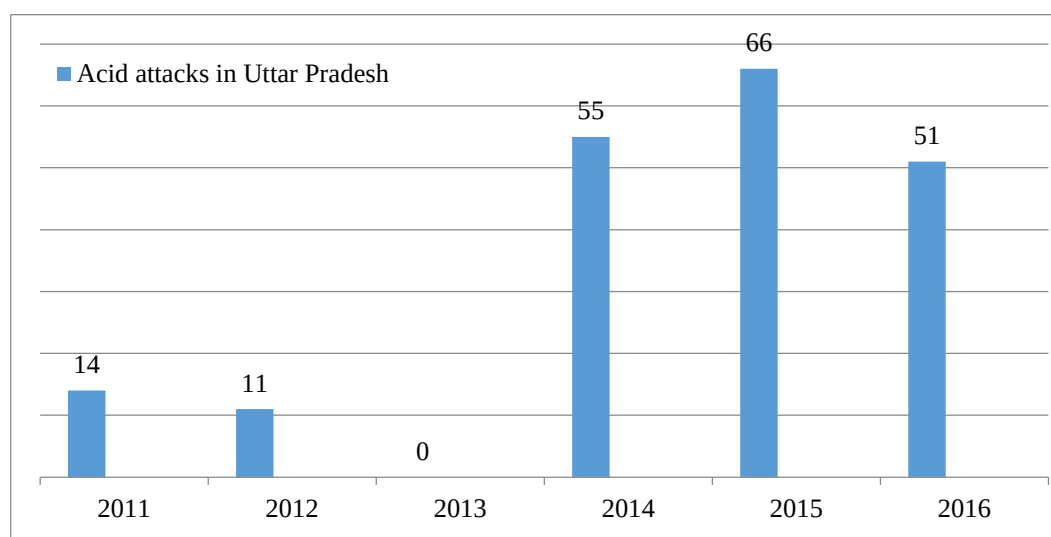
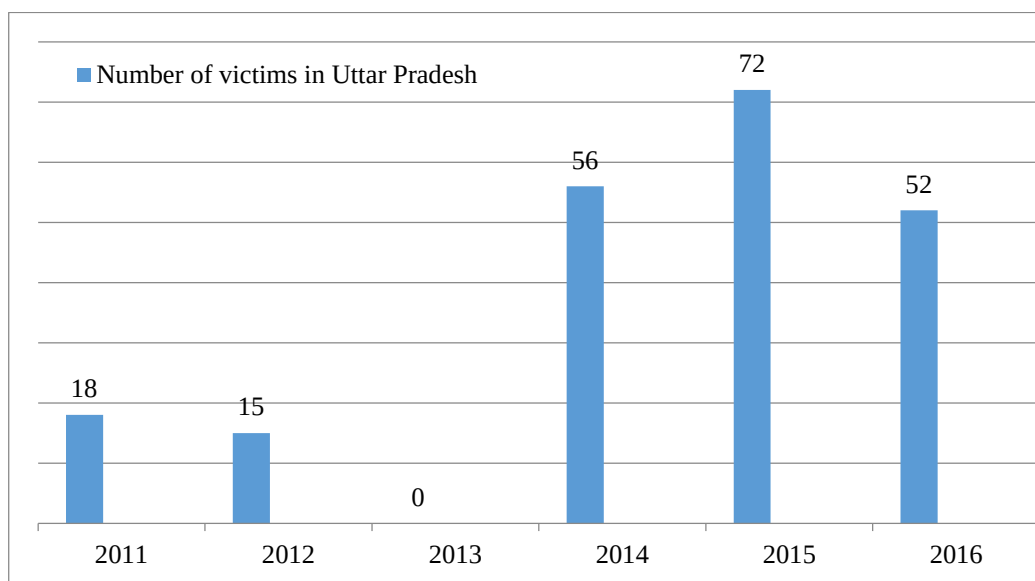


Figure 6.28. Number of victims of Acid Attacks in Uttar Pradesh, 2011-16



6.3. Empirical Study in Sheroes Cafés of Uttar Pradesh

A mere theoretical study of acid attacks on women in Uttar Pradesh is not sufficient to evaluate the problem in terms of the objectives and purpose of this study. To check the effectiveness of the state of Uttar Pradesh for curbing the crime of acid attack a gender based violence an empirical study is must in order to find out that the existing laws and rules relating to acid attacks on women are insufficient to deal with such problem. Thus the empirical study has conducted in Uttar Pradesh, with the object to analyze the problem of acid attacks against women as well as to test the research hypotheses.

6.3.1. Nature of Respondents

With regards to the objective of the survey and requisite information, separate questionnaire were drafted for different categories of respondents to have in depth information regarding acid attacks in Uttar Pradesh. The first questionnaire was given to acid attack victims to know the reasons of acid attack, the affects of their life, to know the perpetrators, which would also explain the causes of problem. As the acid attacks are highest in numbers in Uttar Pradesh among states and highest in Delhi in union territories, the questionnaire were filled by the victims from Sheroes cafés of Uttar Pradesh. The second questionnaire was given to doctors in Uttar Pradesh to understand the physical

effect of acid attack on victims. The third questionnaire was given to advocates to understand the effectiveness of laws relating to acid attacks. The fourth questionnaire was given to the general public which included various persons from different fields, either students, persons working in public and private sectors, members of Nongovernmental organizations, person working in media retired and housewives. The age group of such respondents varies from 18 years to 60 years.

Since the respondents were divided accordingly by the research on well define basis in the research itself, the analysis has been done accordingly.

6.3.1.1 Victims of acid attacks

In this category, 21 respondents were victims of acid attack and perpetrators were generally friend, husband, relative, neighbour, stalker as well as stranger. The following analysis represents the responses of the respondent among the victims which is as follows:

Recounting Experiences Lived Realities of Women Survivors of Acid Violence Working in Sheroes Cafés of Uttar Pradesh

Sr. No.	Name of the victim	Perpetrator	Reason of attack	Injuries Inflicted	Punishment to Perpetrators	Compensation	Free legal Aid
1.	Anshu Rajput	Neighbour	Rejection of marriage proposal	Face	Case is pending in the court 2014-2019	3 lakh	No
2.	Preeti	Neighbour	Land money dispute	Neck and chest	Case is pending in the court 2014-2019	5 lakh	No
3.	Rajnita	Neighbour	Eve-teasing	Face and body	Case is pending in the court 2013-2019	5 lakh	No
4.	Rajani Dubey	Unknown	Personal	Face neck shoulder	No punishment because no case was filed due to family pressure	No compensation	No
5.	Rupali Viswakarma	Not sure Complaint filed against known friend	Rejection of advances	Face and body	Lack of proper investigation case rejected	No compensation	No
6.	Seema	Stalker	Rejection of advances	Face and body	Case is pending in the court 2016-2019	3 lakh	No
7.	Jeetu Sharma	Colleague	Rejection of advances	Face and body	No punishment because Jeetu dropped the case 2014-2019	3 lakh	No
8.	Farha Khan	Husband	Domestic violence	Face neck	Punished 2011-2015	3 lakh	No
9.	Aashma	Husband, In-laws	Family Domestic violence	Face and chest	Punished 2011-2019	3 lakh	No
10.	Garima	Stranger	Accident	Face chest	No case filed because of backwardness	No compensation	No
11.	Kunti	Husband	Relationship conflict	Face chest hand	Case finished after the death of her husband 2011-2017	3 lakh 2012-18	No
12.	Shabnam	Contractor	Rejection of advances	Face and body	2005-2007 dropped due to pressure	3 lakh	No

Recounting Experiences Lived Realities of Women Survivors of Acid Violence Working in Sheroes Cafés of Uttar Pradesh

13.	Rukaiya	Sister's Brother in law	Rejection of marriage proposal	Face and chest	No punishment because no case was filed due to family pressure	No compensation	No
14.	Geeta	Husband	Domestic violence because of Girl child	Face and body	No punishment because the Geeta dropped all the charges against her husband due to fear	5 lakh	No
15.	Bala	Neighbour	Dispute	Face and body	Punished 2012-2013	No compensation	No
16.	Khushboo	Father	Family Dispute related to land	Face and body	No punishment because she dropped all the charges 2017	No compensation	No
17.	Dolly	Neighbour	Rejection of advances	Face and neck	Punished 2013-15	5 lakh	No
18.	Madhu	Stalker	One sided love	Face neck shoulder	No punishment because no case was filed due to family pressure	No compensation	No
19.	Tarana	Friend	Rejection of proposal	Face and body	Punished 2013-2017	5 lakh	No
20.	Rupa	Step Mother	Family dispute	Face and body	No punishment because no case was filed 2008	No compensation	No
21.	Neetu	Father	Domestic violence because of Girl child	Face and body	No punishment because her mother dropped all the charges against her husband due to fear	5 lakh	No

Figure 6.29 Showing perpetrators/offenders in the cases of Acid attacks:

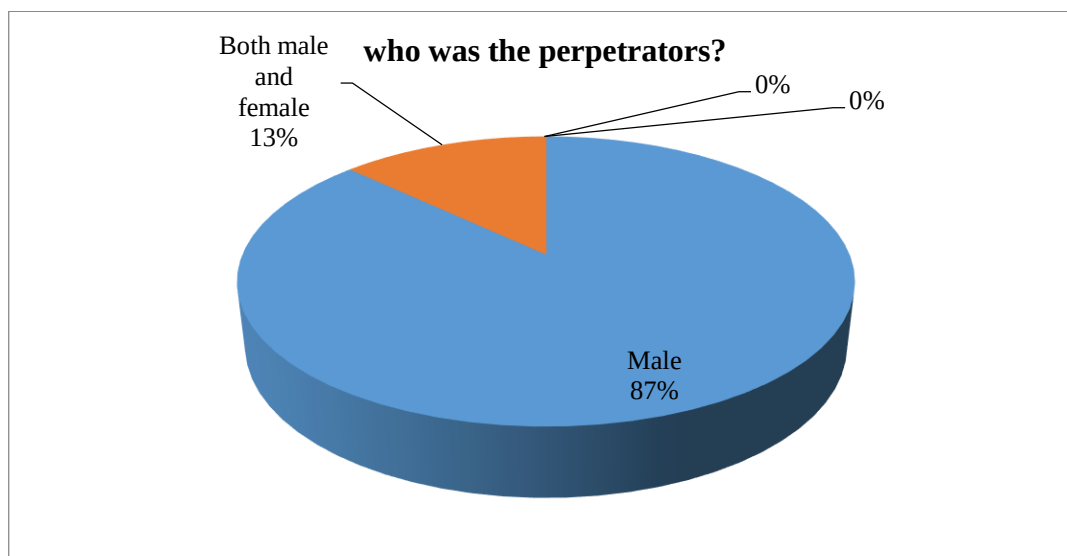


Figure 2.29. Clearly indicates that the main perpetrators or offenders in the cases of acid attacks are male. In 87% cases the offenders are male and in 13% cases the offenders are both male and female.

Figure 6.30. Showing relation of perpetrators with the victim:

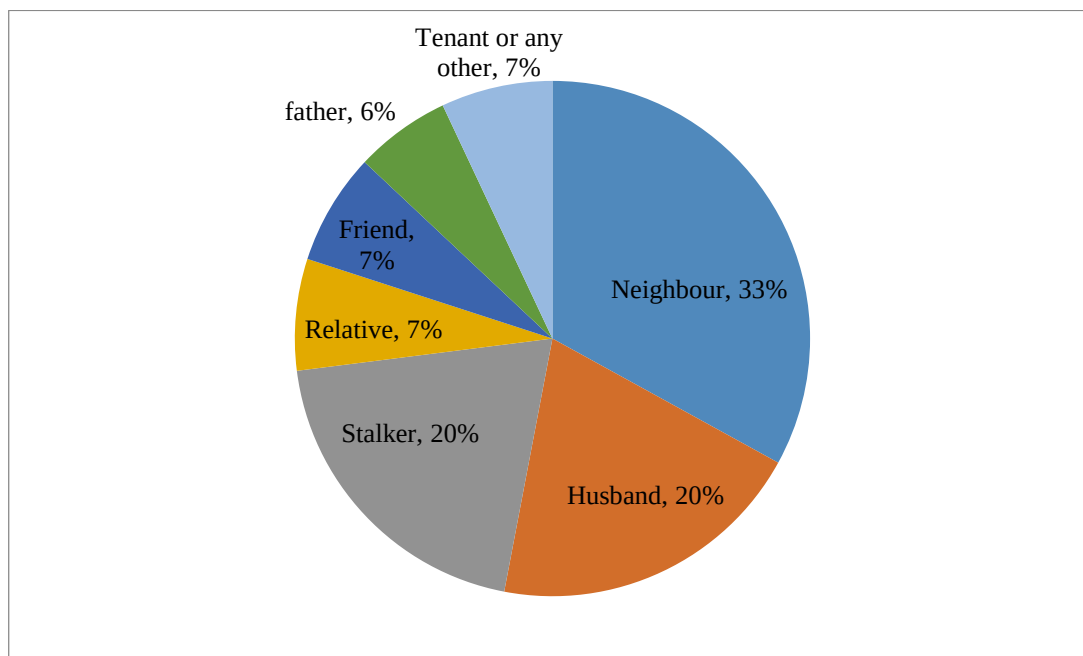


Figure 6.30 shows that in most of the cases the perpetrator was known to the victim only 20% were stranger stalker and 33% were neighbour. Other perpetrators are relatives 7%, friends 7%, tenant or any other 7%, father 6% and husband 20%.

Assertion of patriarchal control

The narratives of the survivors with respect to what they perceive precipitated the acid violence brought out a range of events that strongly testify for the intent of the perpetrators being grounded in overt or covert attempts to assert patriarchal power and control. All the survivors whom researcher spoke to know their violators well, most of them are related to the survivors through marriage, such as her husband or in laws. Other survivors knew their perpetrators as their employers or neighbours. While most survivors suggested that the acid violence came as a fatal finality in a series of violent incidents in the marital home owing to other forms of domestic violence, some survivors also spoke about how the acid violence was followed by them rejecting romantic advances of the perpetrators. Another revelation through the narratives was regarding how acid attacks are used as a weapon for revenge, in relation to land disputes, or for Caste-based violence. Our sample suggested the following trend:

Figure 6.31 Showing reasons of acid attacks:

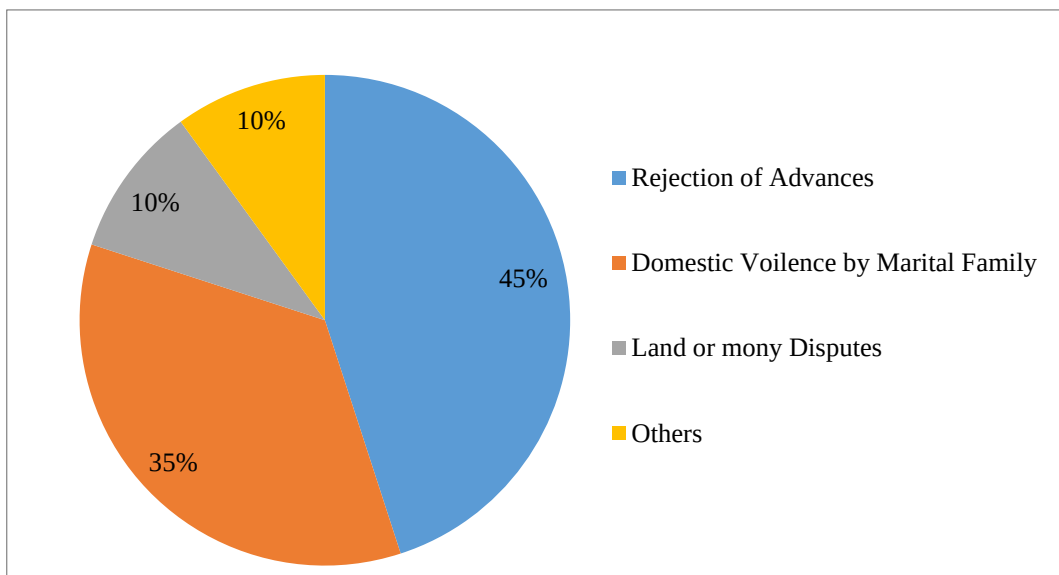


Figure 6.31 indicates the reason of acid attack. In majority of the incidents the reason of the attack was rejection in love 45%. Other major reasons of acid attacks are domestic violence and male ego 35% and land or money disputes and relationship conflicts 10%. Rest 10% cases related to other reasons.

Figure 6.32 Showing effects of acid attacks on victim:

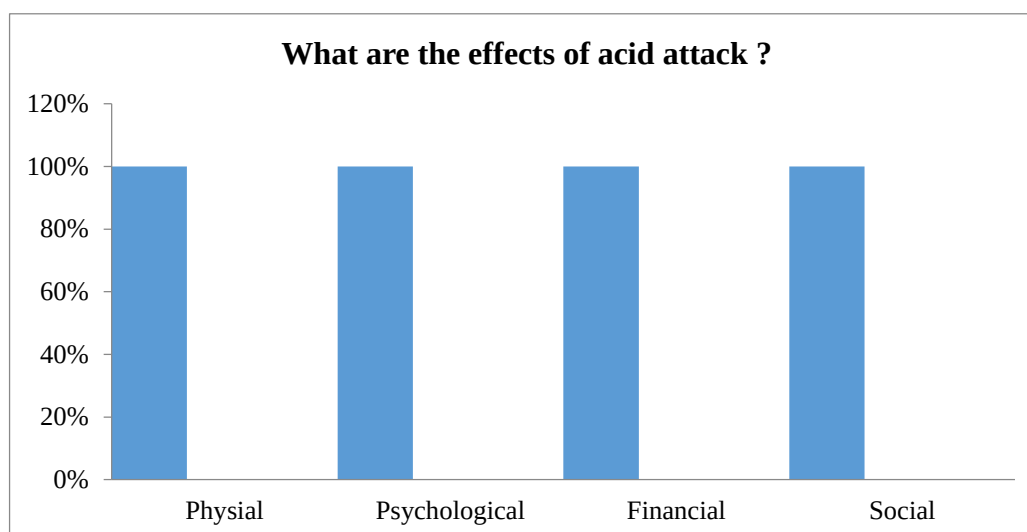


Figure 6.32 indicate the effect of acid attack on victim. All the victims have to face social, psychological, financial and physical affects. The percentages of effects are 100% in each field.

Deteriorating Social Support System

The social relationship of the survivor often suffers in the aftermath of acid violence. The prolonged treatment procedures, and intensive after care routine, and the lack of mobility and other related disabilities mean that the survivor is highly dependent on caregivers. The sustained, engaging caregiving practices result in emotional and physical burn out for the caregiver. If the caregivers are family members, like in most cases there might be a tendency to react to the process among them. The survivor may be considered a “burden” or “liability” for the caregivers, who are and productive and consume financial and human resources in the family. Many caregivers tend to start blaming the survivors for their own conditions. In cases where the survivor is unmarried, the loss of marriage and reproductive opportunities of the survivor further amplify the discord in the natal family. In cases where the survivor is married, acid violence may lead to abandonment by the husband and/or the marital family and they may possibly lose contact with their children. Parveley and Kirtley (2014) further point out that in cases where acid attack is used as a weapon for domestic violence, “fear of social stigma, fear of retribution, economic dependence, or mistrust of the criminal justice system encourages many wives to conceal their abuse from the

authorities, and thus protect their husbands from the law. Many women accept domestic violence as their husbands right as a normal facet of married life, and continue not only to live with their husband, but to suffer for the abuse at his hands. In such cases severance from the marital family becomes inevitable for the survivor, like in our sample where all the survivors who had been attacked with acid as a form of domestic violence were living with the natal family after the violence. Thus, acid violence causes an enormous opportunity loss of survivors, often forcing them into living with social ostracization and stigma.

Figure 6.33 Showing social effects of acid attack on victims:

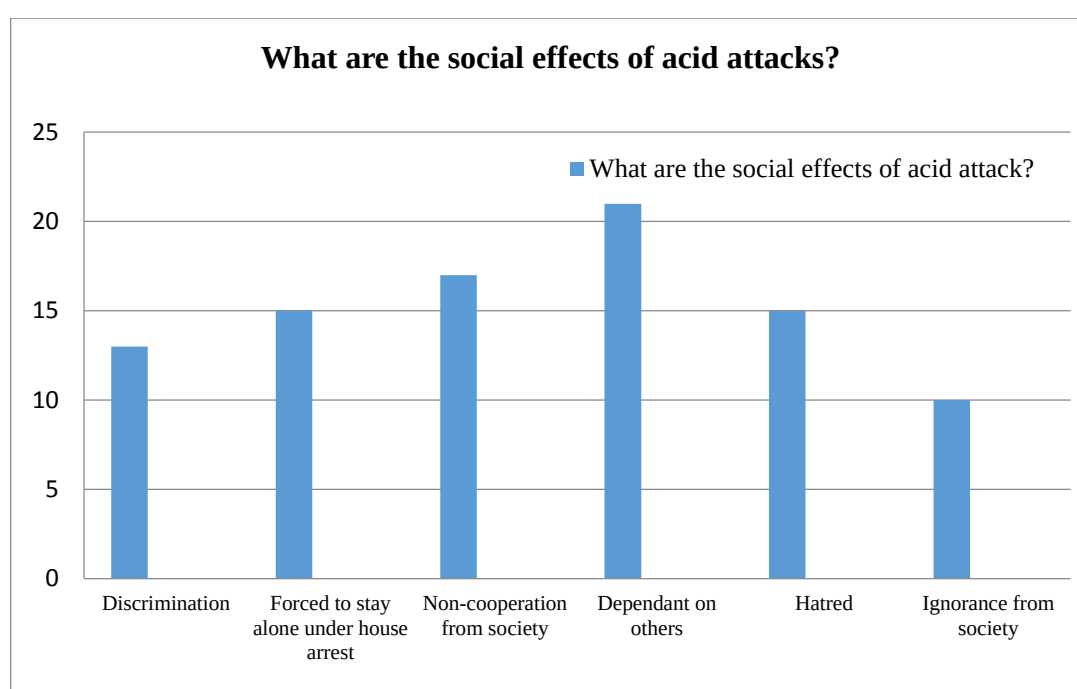


Figure 6.33. indicates the social effect of acid attack on the victim. The biggest issue is of dependency on others. All the victims became dependents on others after the attack. They faced Non-Cooperation, discrimination, hatred and ignorance. Even they were forced to stay alone.

Expense incurred and opportunity loss

For survivors of acid attack, the economic costs of the violence are heavy and far reaching. As is evident from the narratives above, the economic laws may be in terms of expenses related to treatment and trial loss of financial support, and reduction of income opportunities. The extended period of specialised medical

treatments costing lakhs of rupees incur heavy expenses for the survivors' families. It is not uncommon for the family to loan money, mortgage or sell assets or property or to take up additional work to pay medical bills for bear the expenses of the lawyers and other costs of the court, including those of filing and travel. In cases where survivors might be abandoned by their families, there is an absolute loss of financial support, leading to more health risks and insecurity. In addition to this, the loss of earning potential of the survivor in itself poses a great challenge. Many survivors often have to discontinue their education following the acid attack, curtailing their chances of gainful employment in the future. Left with permanent disability or disfigurement and compromised psychological states, most survivors find it difficult to seek opportunities for earning livelihood. On the other hand in a market already divided along the lines of gender roles, survivors may find their options for access to economic Independence even further narrowed down because of their disability or Changed appearance. In such situations, “mainstream” employment becomes difficult, posing a challenge for authentic integration.

Figure 6.34 Showing economic effects of acid attack

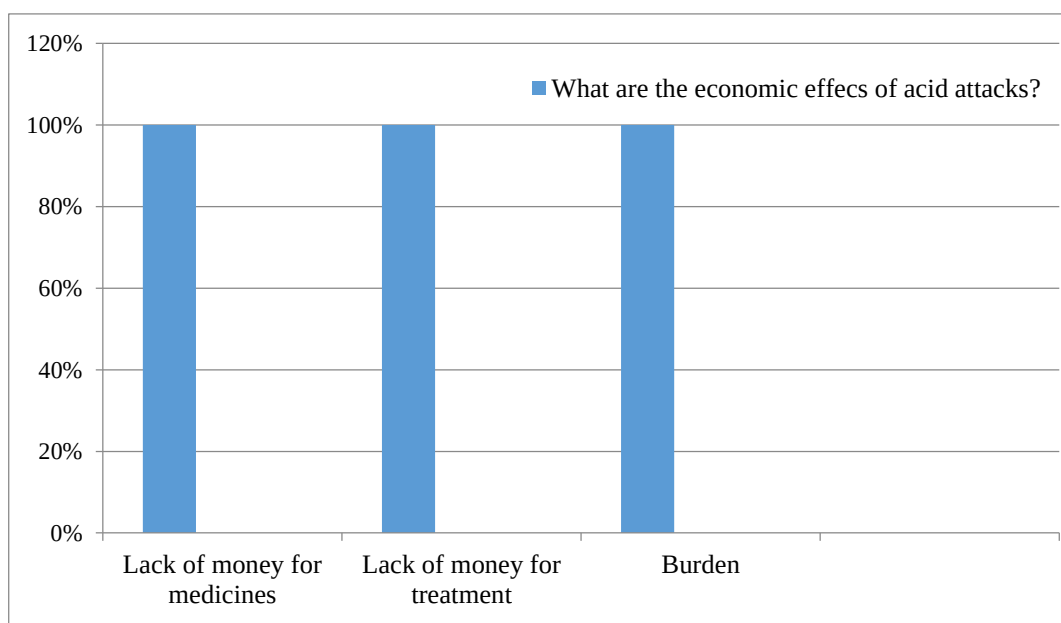


Figure 6.34 indicates the economic effects of the acid attack on the victim. 100% of the victims faced the economic problems like lack of money for the treatment, lack of money for the medicines, became burden on the family.

Figure 6.35 Showing the effect of acid attack on the Job of the victim:

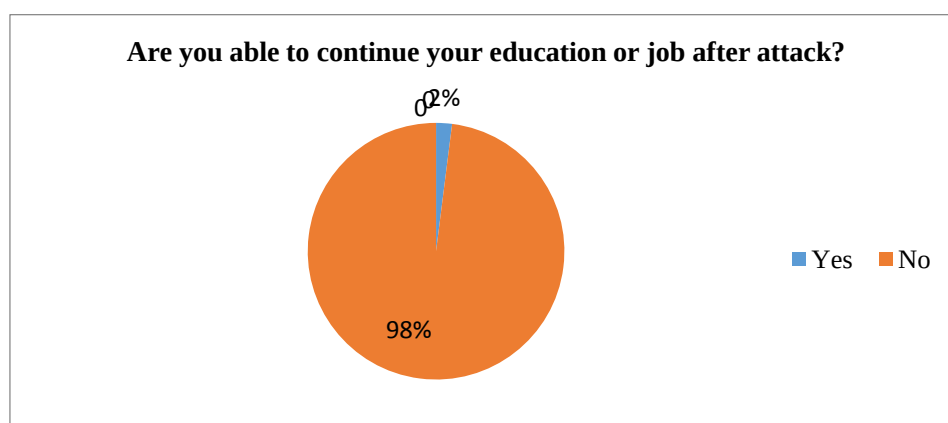


Figure 6.35. indicates the effect of acid attack on the job of the victim. According to the response 98% of the victims lost their education or job after the acid attack. Only 2% are able to continue their old job after the attack. But the change has been made by the help of NGOs. Many victims are now working with NGOs.

Trauma, Neurotic and Psychotic tendencies

Acid violence can be a deeply traumatized experience for the survivor because of the magnitude and nature of injuries as well as the understood long-term consequences of these injuries in her life. The trauma often transforms into neurotic and psychotic disabilities for the survivors. Peveley and Kirtley (2014) suggest that the psychological impact of assault is often deep seated and may lead to mental illness, anxiety and shock in the immediate aftermath of the attack. Insomnia, nightmares, flashback post-traumatic stress disorder are common experiences for survivors in the days following the violence the memory of the assault may also lead to long-term repercussion such as anxiety mood swings depression fear of repetition feeling of shame or guilt and a tendency to dwell on the reasons for the assault in our conversations with the survivors some of the recurring themes that emerged corroborated these assumptions injury and destruction of the body especially the face that is the channel for emotions communication and recognition symbolises and eraser of identity for many survivors the idea of living with a disfigured face and dealing with social responses to it may create intense feeling of self-hatred worthlessness and shame in them the constant fear of negative reaction for people leads to Extreme self-

consciousness and may result in withdrawal and social isolation it is not uncommon for survivors to come template on ending their lives.

Figure 6.36 Showing psychological effects of acid attack:

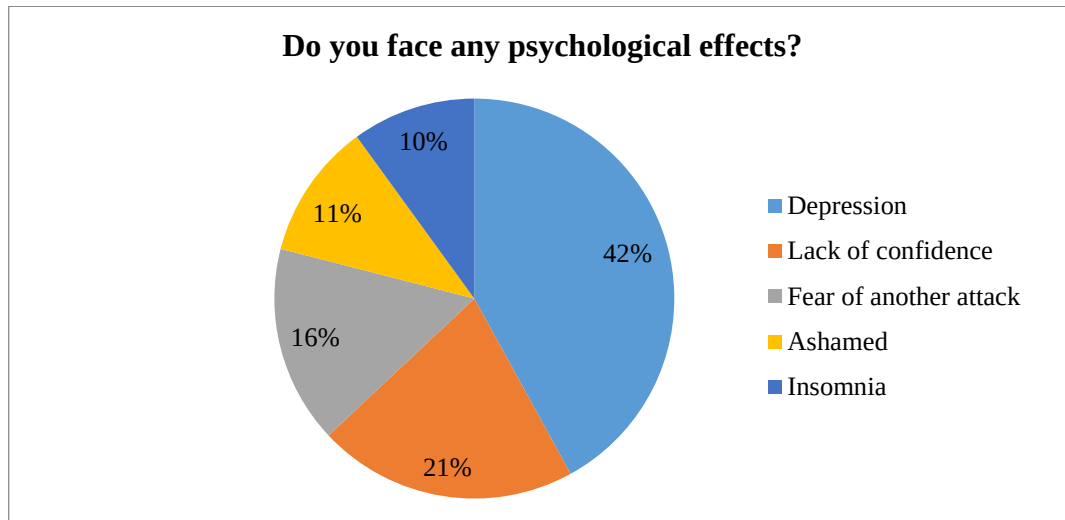


Figure 6.36. indicates the psychological effect of acid attack on victims. 42% of victims faced depression after the incident. Other faced lack of confidence 21%, fear of another attack 16%, ashamed 11% and insomnia 10%.

Physiological effects of acid burns

The burning may have some profound effects on the physiology of the victim following the attack. Thick burn scars, resulting from stretched and contorted skin, being to form around the burnt areas. This contortion may also affect particular organs, such as permanently forcing the eyes open forced closure of the lips because of thawing and fusing, or forced opening of the mouth that can leave the teeth exposed. Cheeks, neck and chest can become heavily scarred and in some cases, the survivor's chins melt and fuse with their chests. Additionally, the breasts and arms might also result in scarring if affected by the acid. The Scars are often thick and dry as the skin pores melt due to contact with acid. Scars can also result in permanent disabilities if they form and Stiffen around joints or parts of the body that require mobility such as the neck, shoulder of armpits. Such disabilities require years of intensive physiotherapy to restore Movement in them. Besides scarring, there is a consistent risk of infections such as septicemia or gangrene because of constant exposure of the burnt areas. Further complications

due to internal injuries may also arise that are prone to infection. Burns and infections can be further aggravated by poor treatment practices such as use of improper first aid or use of other indigenous treatment methods.

Figure 6.37 Injuries inflicted on the victims due to acid attack:

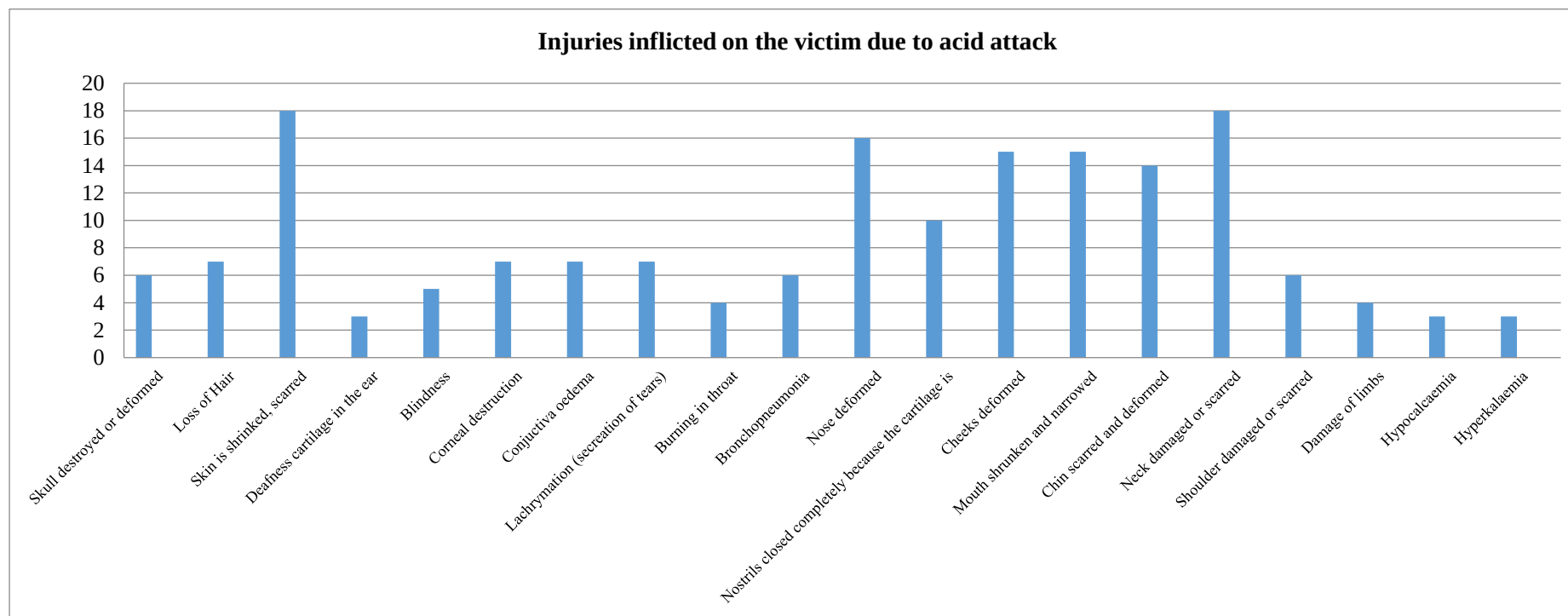


Figure 6.37. indicates the injuries inflicted by victims due to acid attack. The data shows that most of the injuries were inflicted on the face. In most of the cases forehead was shrieked (25%), neck damaged or scarred (20%), cheeks were scarred or deformed (10%), nose were shrunked or narrowed (25%), mouth shrunked or deformed (10%), other major injuries were inflicted.

Figure 6.38 Showing how victims feel going in public after the attack:

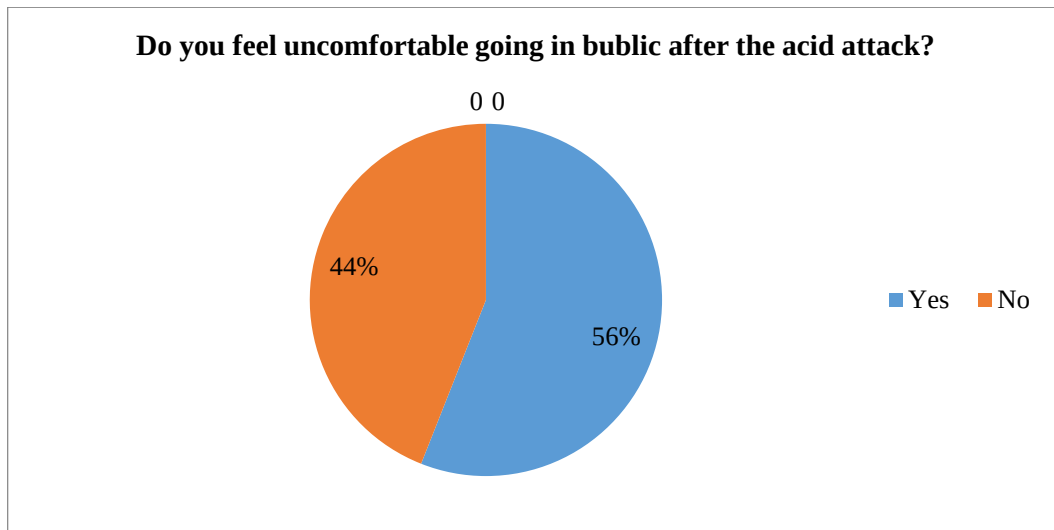


Figure 6.38. Indicates that how the victims feel while going in public places after the acid attack. 56% of the victim said they feel uncomfortable while going in public and 44% said no.

Figure 6.39 Showing behavior of public towards the victims after the attack:

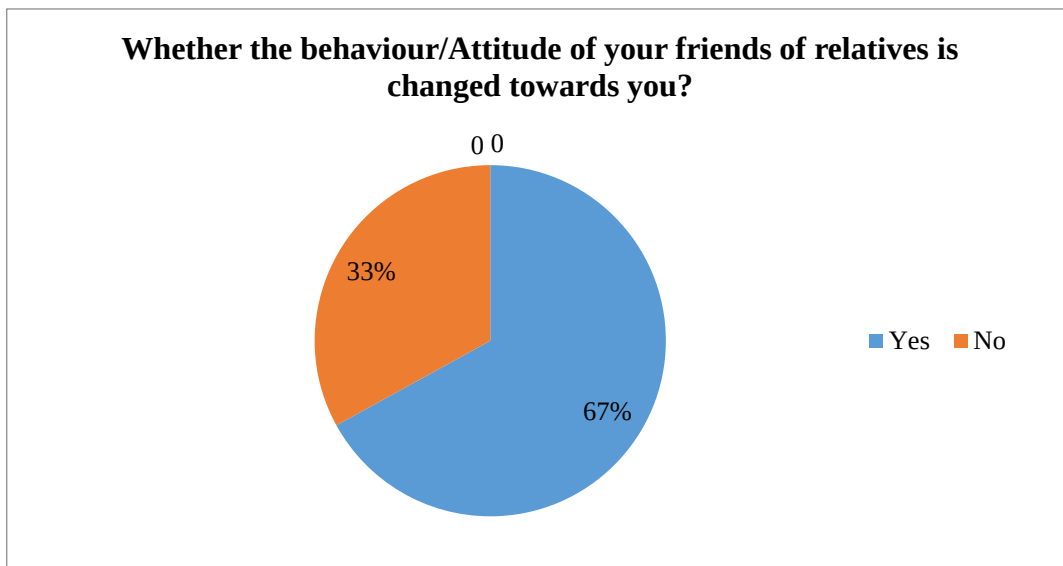


Figure 6.39. Indicates the behaviour of public towards victims after the acid attack. 67% respondents said that the behaviour of their friends and relatives changed towards them after the attack.

Figure 6.40 Showing expenses incurred for the treatment of victim:

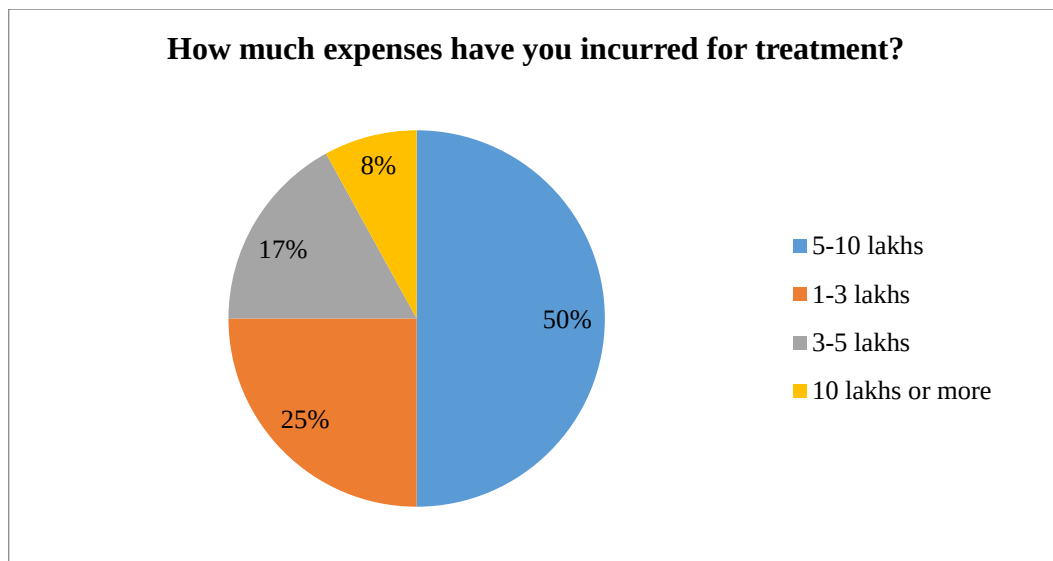


Figure 6.40. indicates how much expenses are incurred by the victim for the treatment after acid attack. The data shows that the treatments for the acid attack victims are very expensive. 5-10 lakh expenses were incurred by 50% respondents. Rupees 1-3 lakh by 25%, 3-5 lakh by 17% and 10 lakh or more by 8% were incurred.

Figure 6.41 Showing compensation received by victims:

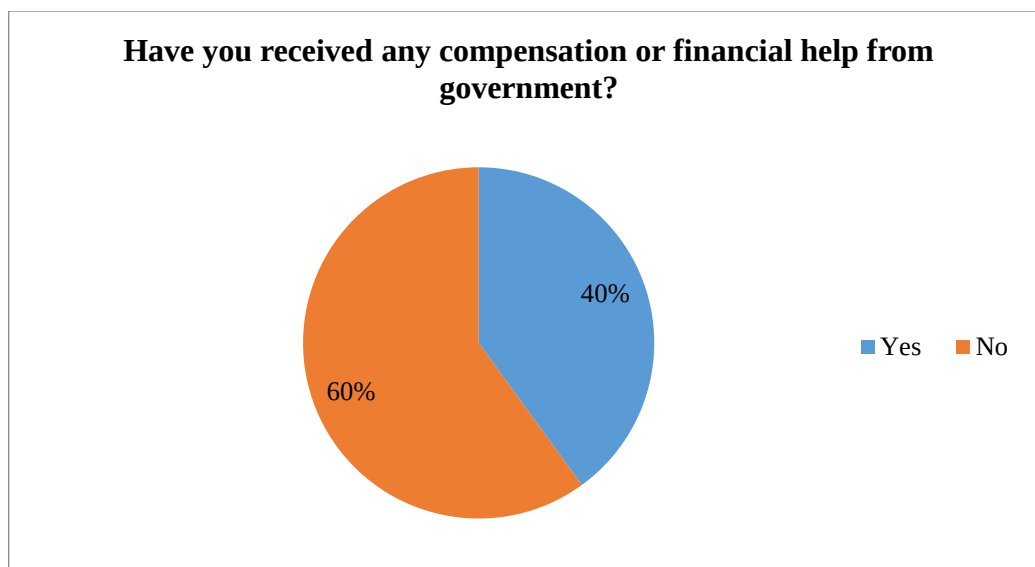


Figure 6.41. indicates whether the respondent has received any financial help or compensation from the government. 40% respondents said that they have not received any financial help or compensation from the government. 60% has received compensation from the government.

Figure 6.42 Showing whether policy of government to provide compensation to the victims of acid attack is sufficient or not:

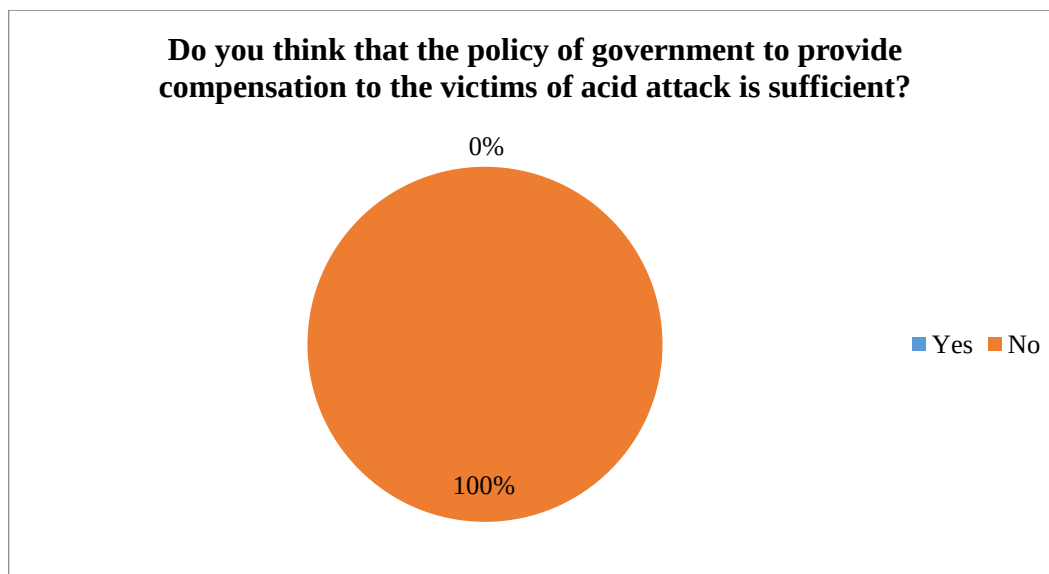


Figure 6.42. Indicates whether policy of government to provide compensation of 5 Lakh rupees to the victims of acid attack is sufficient or not. 100% respondents responded that it is not sufficient.

Figure 6.43 Showing immediate first aid received or not:

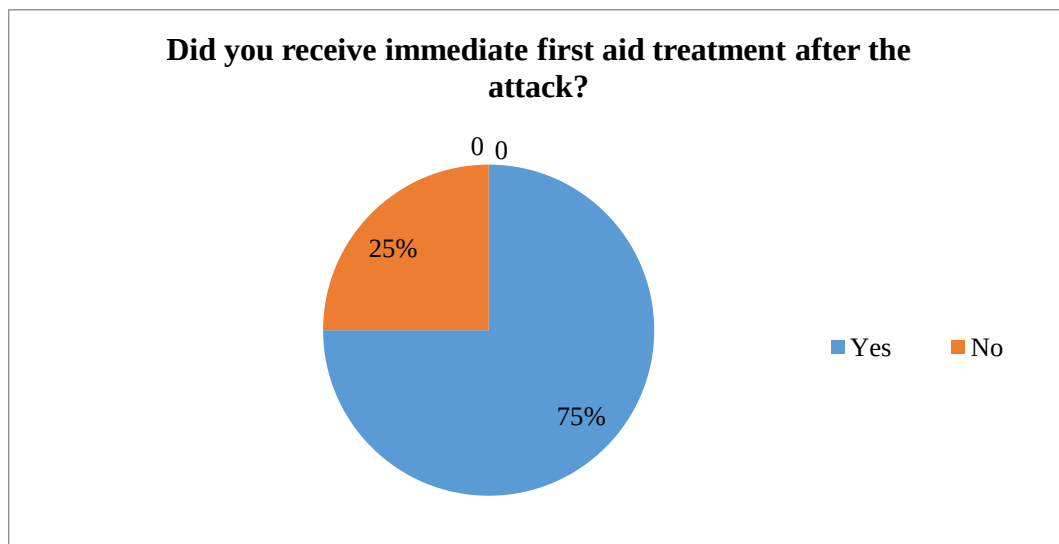


Figure 6.43. indicates whether the victim received immediate first aid after the attack or not. 75% of the respondent said that they did not receive any immediate first aid.

Figure 6.44 Showing help received from NGO:

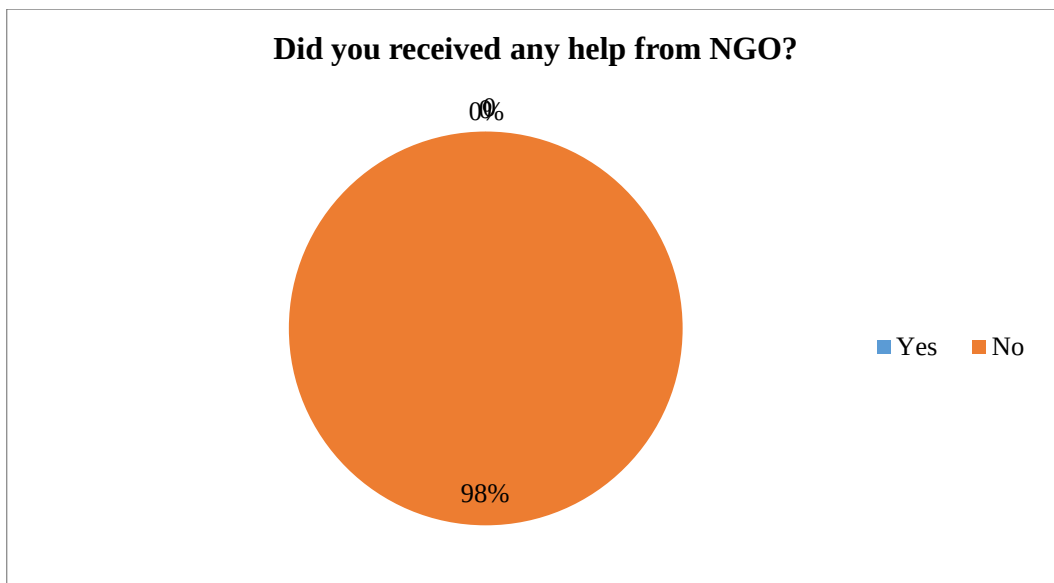


Figure 6.44. Indicates whether the respondent received any help from any NGO or not all the respondents (100%) said yes.

Figure 6.45. Showing free Legal Aid given to the victims:

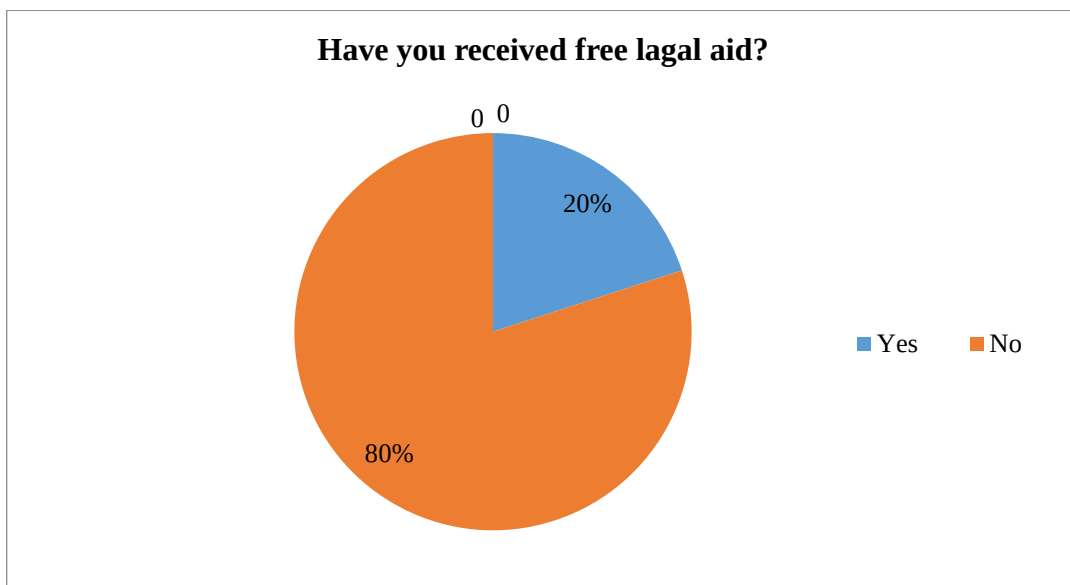


Figure 6.45. indicates whether the victim received free Legal Aid or not. 80% respondents said no, only 20% respondents have received free Legal Aid.

Figure 6.46 Showing whether case is pending in the court:

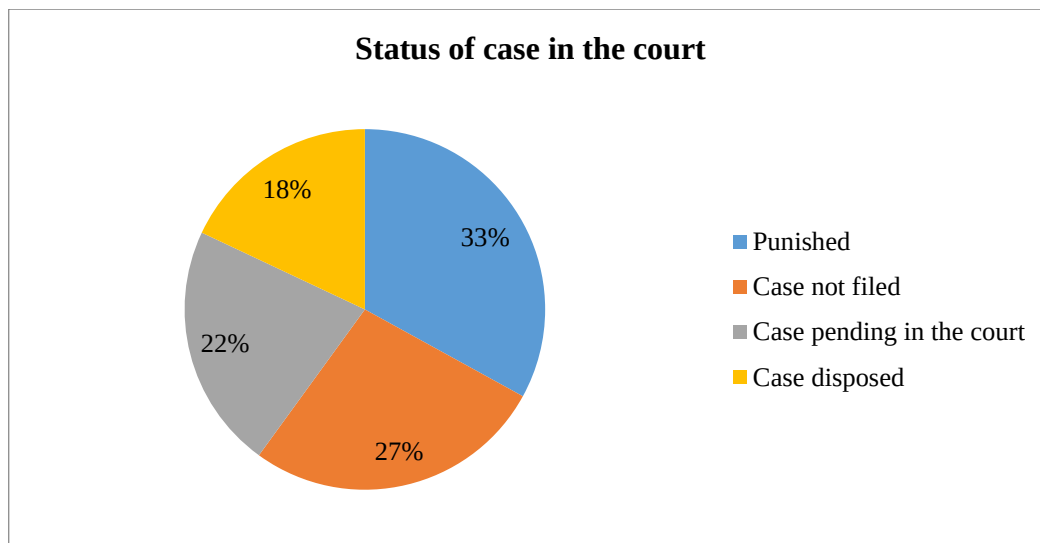


Figure 6.46 indicates whether case is pending in the court. Only 22% respondents said yes. In 33% cases perpetrator was punished, 27% cases not filed, 18% cases disposed by the courts.

Figure 6.47 Showing responses for the regulation of sale:

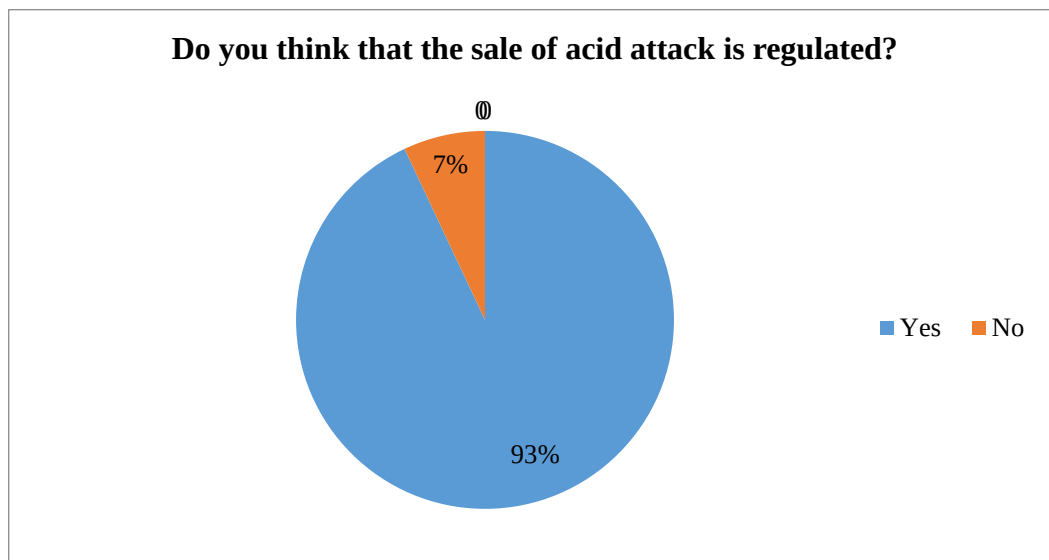


Figure 6.47. indicates the response for the regulation of sale. 93% respondents said that the sale of acid is not regulated only 7% of the respondents agreed that the sale of acid attack is regulated.

Figure 6.48 Showing kind of punishment should be given in the cases of acid attacks:

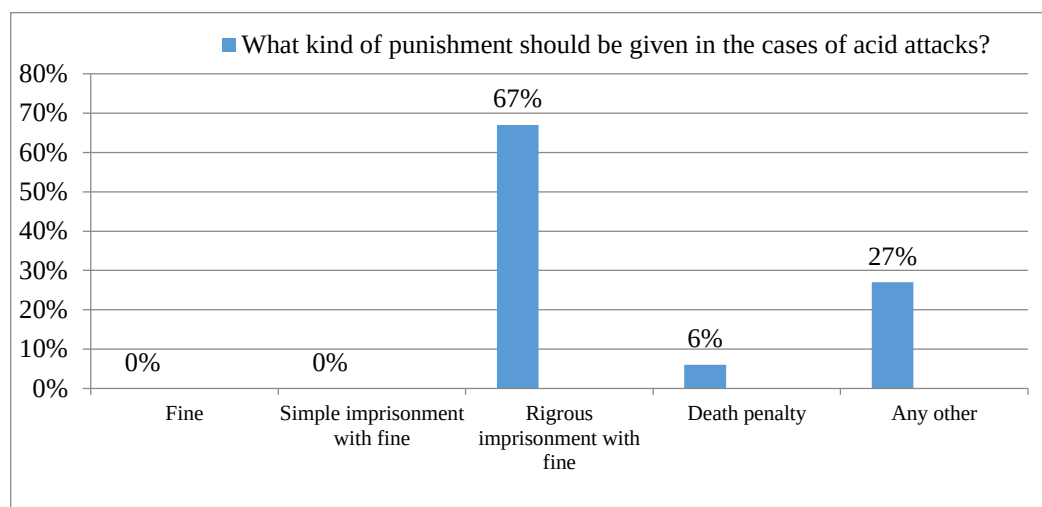


Figure 6.48. indicates that what kind of punishment should be given in the cases of acid attacks. 67% of the respondents suggested rigorous imprisonment, 6% suggested death penalty and 27% of the respondents suggested any other kind of punishment.

Figure 6.49. Showing the reforms needed for acid attack victims:

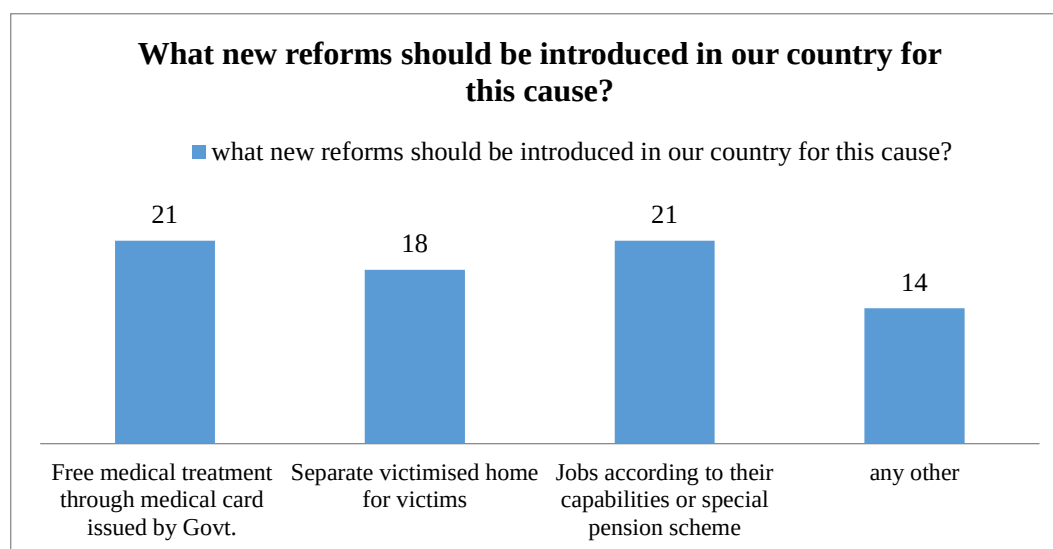


Figure 6.49 indicates what new reforms should be introduced for acid attack victims. According to all respondents, there should be free medical treatment through medical card issued by Government, jobs according to their capabilities. Some of the respondents suggested for special pension scheme for the victims and separate victimized home for the education and survival of victims.

Figure 6.50 Showing the response whether the present laws and policies on acid attacks are sufficient to curb this crime:

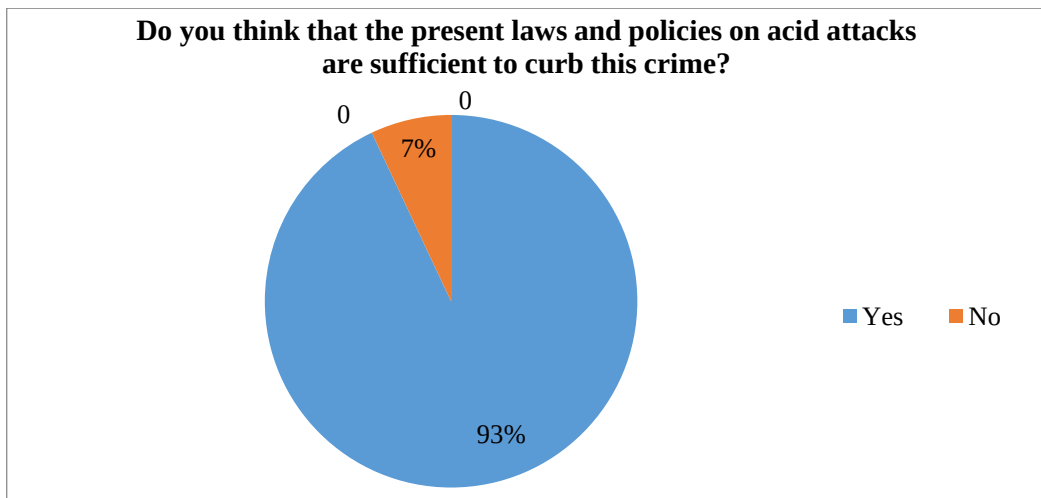


Figure 6.50 indicates the response whether the present laws and policies on acid attacks are sufficient to curb this crime? 93% of the victims said that the present laws and policies on acid attacks are not sufficient to curb this crime.

Figure 6.51 Showing whether crime of acid attacks is on rise or not:

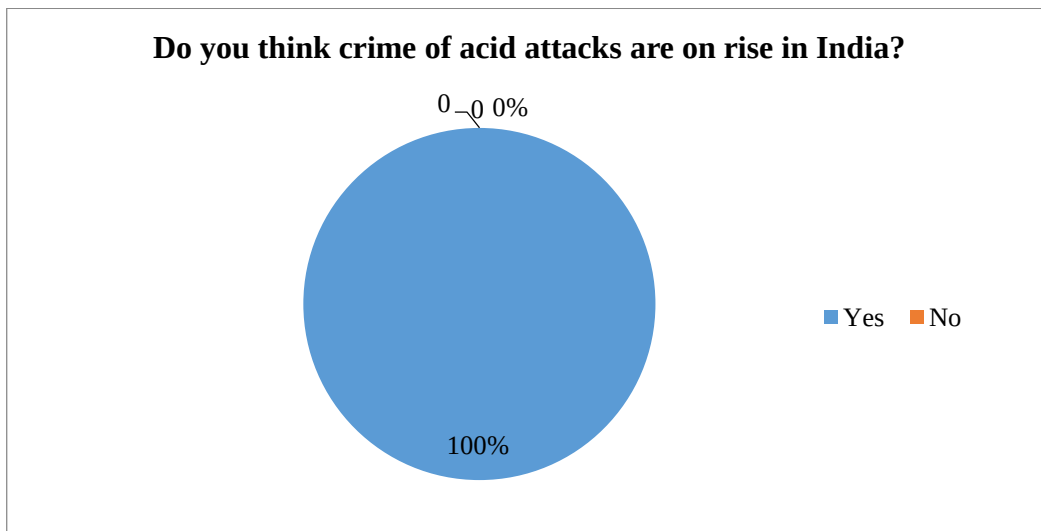


Figure 6.51. indicates whether the crime of acid attacks are on rise according to all the respondents the crime of acid attack are on rise.

Interviews of the acid attack victims

The researcher has interviewed the victims of at acid attack. It was in the form of semi structured interview. The following information of the victims are based on the information and statements given by the victims themselves.

a. Anshu Rajput's Interview

Anshu Rajput from Bijnor was left partially blind when acid was thrown in her face in an unprovoked attack on February 12 2014. She was stalked by a man in his 50s who would persistently ask her to marry him before the targeted attack. But despite telling her parents and the police aged 15; Anshu claims he threatened her after she refused his offer of marriage. After entering her home at night, Anshu states the stranger threw acid directly in her face while she was sleeping, something that left her partially blind, unable to speak or eat, and needing many skin grafts. Anshu, said: For 12 days I lay in hospital bed crying in pain. I couldn't see anything as the acid had burned my eyes and I couldn't speak because it had gone inside my mouth. I could only listen to my parents crying and pleading doctors.

After this my parents brought me home but for seven months I could not see or speak. I was just taken to a burn specialist for dressing changes. I heard the man accused of the attack was arrested the same night which gave me a sense of relief. When I was back at home my parents had removed all the mirror in the house, the pain was so horrific that I didn't even know my face had burnt completely. But one day I was drinking water in steel glass when I saw myself. The distorted reflection was horrifying. The glass fell from my hand and I screamed in horror.

It was the most horrifying moment of my life. All my dreams had shattered, my confidence had gone. I couldn't believe my face had completely melted. There was nothing on my face. My eyes, nose and mouth were all burnt and the skin was dangling off. I soon drifted into depression, not knowing what further held. I would cry for hours, days. My parents were devastated to see me in this condition but they always encouraged me to stay positive. I remember telling them that I want to die but they made me understood the importance of living and

telling me how much they love me. After the incident the school where I was studying also expelled me. I was told that my burnt face would scare other students and that I shouldn't come to school.

In the neighborhood, no one would look at me. They wouldn't talk to me or let their kids talk to me. That year was the most difficult part of my life. But my parents came across Stop Acid Attack, rehabilitation for acid attack survivors. I got a sudden rush of motivation and felt that this was my opportunity to start afresh.

b. Preeti's Interview

Preeti Patel from Fatehpur was attacked with acid in the year 2014 by a 45-year-old neighbour, after she protested against his harassment. Preeti says "He tried to attacking my face, but I was lucky. The acid fell on my back." Now she has been working at Sheroes for a year. No legal action was brought against perpetrator. He is free.

"Even a seven-year-old child can walk up to the chemist and ask for acid, and the chemist will oblige without an inquiry. I have myself done the experiment. The chemist did not ask me why I was buying the acid. With just Rs. 15-20 (cost of the acid), you can ruin somebody's life," says Preeti.

c. Rajneeta's Interview

Rajneeta 21 year old girl, from Meerut, acid attacked by her neighbour Naresh Mohit and Bhure in year 2013 for protesting against Eve teasing in these 5 years she has faced numerous challenges to survive she lost her 90% vision of both the eyes facing 16 to 17 painful surgeries but take a stand and lead a normal life for herself. In September 2018 she joined Sheroes Hangout in future she wants to become a police inspector and try her best to stop this horrific acid attacks.

d. Rupali Vishwakarma's Interview

Rupali Vishwakarma, a 25 years old girl from Rehti Malipur village in Ghazipur District, Uttar Pradesh survived an acid attacked in 2015. She has faced

numerous challenges to survive, take a stand for herself, pursue a career and lead a normal life for herself. She always dreamt of making her name in the talent industry. There she was, when one day she got a chance to showcase her talent in a singing competition held at her school in Rehti Malipur. The organizers of the competition were so impressed that they asked her to visit their office in Balia, closely located to Ghazipur. One day he introduced her to his friend Ajay Pujari as she says. He praised her of her talent so much and assured that he would be glad to find her better roles in films. Soon he began to express his love or infatuation for her. Rupali didn't find him well as a person and rejected to his proposal for any relationship with him. It was two years she had known of him. She got a call an evening that they require her at the shoot location on a film set. She confirmed that Ajay was not there at the set. But when she went there she finds him and was quite disturb. However, he they didn't had any interaction and as the day ended she had dinner there with others. Later she felt something malicious was put in her food and she started feeling dizziness. She went to a room to take a breath but she slept immediately. Then around midnight somebody acid attacked her. There were onlookers but nobody actually helped. Then the same Ajay come and takes her to the hospital. Now she is unclear who attacked her and again the police arrested Ajay from the hospital, served a jail term of 1 year, and is now free from custody. In October 2017, she started working at Sheroes Hangout.

e. Jeetu Sharma's Interview

Jeetu Sharma, 22-year-old girl, from Aligarh, joined Sheroes in 2016. The final year college going student suffered an acid attack on July 17, 2014. She was acid attacked by a worker, working with her in a garment shop. Her attacker, 45-year-old, had been pressuring her to marry with him. He started stalking the 18-year-old Jeetu, making lewd remarks and suggesting they should sleep together.

f. Farah Khan's Interview

Farah khan from Farrukhabad said, attacker was my own husband. He was an advocate but did not really do anything. He was married for 6 years but he

would treat me very badly. He wouldn't even let me go out. I filed for a divorce and went back to my parents' house. But that didn't stop him. It happened on February 11, 2009. She manages the counter works at Sheroes.

g. Ashma's Interview

Ashma, who is in her 40s, hailing from a Jat family in Meerut, she was attacked by her in-laws after she couldn't pay dowry to them. She was often physically assaulted at home and was seven months' pregnant when her husband and his family threw acid on her. Asma says "They poured acid over my belly. They thought if I gave birth to a boy, he would get legal rights over the family's property and they would find it hard to get rid of me. But I gave birth to a stillborn".

h. Kunti's Interview

October 22, 2011, is etched in Kunti Soni's memory like a scar. That was the day when a few splashes of a fiery liquid turned her world upside down, shattering her self-confidence and sense of security. Two years into her marriage, Kunti had just stepped out of the mobile parts factory in Lucknow where she was employed when she was confronted by her husband. The two had had a heated argument and in a premeditated attack, Kunti's husband poured acid over her face and arms. Kunti, who is in her 20s, says her husband, a "habitual drunkard," suspected her of adultery as men also worked in her factory. He deliberately poured the acid over my face so that no other man would accept me".

Though she received timely treatment, she lived in trauma for at least three months after the attack. Kunti says "I would stay at home and weep all day. When things started feeling normal, I looked for work but nobody wanted to employ me. They would say '*Aisi ladkiyon ko kaam nahi dete* (nobody employs such women)'. "

She separated from his husband after the incident, attacking her again also worried her as he was out on bail after spending some time behind bars. The case is now moving at a snail's pace.

i. Shabnam's Interview

Shabnam was just 15year old, when her life changed at the dead of night. She was asleep at her home in Hathras. A 45-year-old contractor of a factory where she was working as an embroiderer sneaked in and poured acid on her face, because she refused her unwanted advances. It burnt through her skin, dissolving every inch. She lost an eye.

j. Rukaiya's interview

Rukaiya was attacked on September 7, 2002 by her by her sister's brother in law. He wanted to marry her, but she refused his proposal. Rukaiya's sister was not happy in her married life because her in laws were abusive. She was facing domestic violence. Rukaiya's sisters in laws family has many times made proposal for Rukaiya's marriage with the boy. But the proposal was rejected because Rukaiya's sister was already in abusive marriage. But the boy desperately wanted her and used to imagine her as his wife. On the fateful day, he came to her and asked her to marry him. Both Rukaiya and her sister refused. He was so angry. In the evening, everyone was having tea. He went inside the house holding the cup of tea and came back again within few minutes. He came near Rukaiya and threw acid on her. She was shocked. She started screaming. She felt her face was burning. People poured water on her. Buckets and buckets of water was poured on her. Her mother also fainted. She was rushed to hospital. She was broken when she saw her face. She wanted to commit suicide. But her brother supported her. She never lodged the FIR to save her sister's married life. It was due to her brother that she got married. She got her confidence back after marriage. She is a brave girl. She fought back. She didn't loss hope. She struggled to live. She is married for 7 years now and have 4 years old son. She is working in Sheroes Hangout.

k. Geeta Mahor's interview

Geeta herself is another acid attack survivor as well as a mother of acid attack survivor. Geeta was attacked by her husband on July 16 1992. Geeta was 23 year old at the time of attack. She was living with her husband, two daughters and in laws in a slum in Agra. Her husband was not happy after the birth of

daughters because her husband wanted a son. He used to come home drunk and physically assault Geeta. On the fateful day Geeta was lying on her cot with her too small daughters. The house was very quiet and Geeta shut her eyes to sleep. In an instant, her face was consumed with unbearable pain and Burn. Her daughters were screaming. Geeta's husband had thrown acid on all three of them. Despite the pain, Geeta rushed herself and her daughters to the nearest police station. Weeks later, one of her daughter succumbed to her injuries and died. The Other daughter, Neetu, grow up in shameful isolation, without a face and nearly blind. Geeta's husband was very cunning he started writing letters to Geeta from jail. He emotionally blackmailed her. He said that he will take care of Geeta and her daughter. In failure, he wrote a threatening letter to kill her and her parents. Out of sheer fear, Geeta dropped are charges against her husband. She started living with him again and had a third daughter Poonam. She said:

“I had no choice. We are poor people and we have not support. We have to live life. This is a male dominated society. I have to live with my husband. He is a drunkard. He still drinks and comes late night.”

Geeta did labour for her daughter's later she met the Chaany team. Now Geeta is an independent woman. Her life is no more of a victim now. She is a survivor. She has started working in sheroes Hangout in Agra a Café run by acid attack survivor.

She wants to give message to every man that no woman is week. Only circumstances bound her. Every girl and women should live her life freely. Every girl should learn to protect herself. No man is going to help her, only he can torture her. No girl is weak. Only she has to learn to live in society fearlessly.

I. Bala's Interview

In May 2012, 24-year-old Bala was attacked at the age of 17 by her parents' employer after a dispute in her own home. She was attacked by her mother's boss when her mother refused his unwanted advances. Bala has undergone seven facial surgeries and says that she is slowly regaining her confidence. She's learned to read and write, and has picked up English from the

many tourists who visit the café. Bala's biggest regret is that she was attacked by mistake. She was never the target of this attack.

She tells us that 'A woman's face is the most essential aspect of her beauty – they think the girl will sit at home and no one will marry her. In 2013, the country's laws were reformed so that attacking someone with chemicals became punishable by up to 10 years in prison. But Bala doesn't think the law is enforced well enough. Bala continues: 'Some people are scared and I understand but I wasn't. My entire village was against me but I fought and got my case registered.' Despite her attacker being jailed for just seven days, she felt 'some peace' over the sentence.

m. Khushboo's Interview

Khushboo's father Manik Chandra, attacked her with acid after she reported him to the police for sex trafficking young girls in their home, something she had witnessed all her life. He married young girls and then sold them to different men, 'she remembered. He'd often abuse and hit my mother and send her away and would bring other women home while she was away. My mother often reported him to the police but the police never took her complaint seriously. He tried to sale me but thankfully I escaped. But the final straw came when he sold my 16 year old sister to a 30 year old man. That's when I decided to go to the police. I had to help my family. Once her father came to know of her actions he started threatening her but she refused to be scared and stool firm. She added: she often threatens to destroy me and my family but I wasn't going to let him win. I thought they were empty threats and would not do anything as I'm still his daughter. Khushboo was asleep with her husband Vinod Kumar, 26 and 3 year old daughter Trisha when Manik knocked on the front door and called her name at 3:00 a.m. on April 30. I woke up to him calling my name, she said. I went towards the door and as soon as I opened the door, she threw acid on me. My entire body shook with the shock of the pain. I cannot even express the pain I felt. I just remember screaming and fell on floor. My husband came to my rescue and that's when he was also affected by it.

Manik Chandra is still in jail but Khushboo fears for her life if he is released on bail anytime soon. Khushbu Devi now 21 from a small village in Uttar Pradesh, Northern India had endured two painful surgeries so far to help heal the devastating scars on her face. Even though several doctors initially refused to treat her, she was finally accepted at King George medical university hospital, in Lucknow, Uttar Pradesh, last month, where she spent 5 days.

Her sight is difficult in her left eye and she can't use her right arm but she is trying to be determined that surgery will help. Khushboo said: 'after the attack I couldn't see from one eye and my arm was frozen. It wouldn't move. When I first went to the doctors around my village, nobody even wanted to touch me. They just prescribed medicines. But the scars appeared and my eye and arm would not heal.

Eventually we were referred to a hospital in Lucknow. I can partially see from the affected eye now but one of my nostrils is still closed. They've suggested taking skin from my thigh and fix it on my face. But they say they cannot guarantee any success. Since Khushboo was attacked with acid on April 30, 2017 she has struggled to accept her new face. She revealed: I feel very sad when I see myself in the mirror. I am not pretty anymore. My father ruined it all for me. He ruined something that gives people the first impression of me and I know that my first impression is now a scary.

n. Dolly's Interviews

Fourteen-year-old Dolly survived an acid attack a year-and-a-half ago. Her attacker, 25-year-old Pradeep, had been pressuring her to enter into a sexual relationship with him. Dolly lives with her parents and four siblings live in a rented home at Sultanganj ki Pulai. Her mother works as a domestic help, and her father is a house painter. The trouble began when a man from the same neighbourhood, twice Dolly's age, wouldn't leave her alone. He started stalking the 12-year-old schoolgirl, making lewd remarks and suggesting they should sleep together. Then one day he suddenly turned up at her house while she was playing with other children. Dolly told me "I ran away towards my room but he threw acid on my face. It started to burn and I screamed and shouted". Dolly's family immediately doused the raw flesh of her face with water and rushed to hospital.

Thanks to the quick thinking of a doctor, her eyes were washed out and her sight was saved. Even so, Dolly is now permanently scarred and she still has trouble breathing because of the damage to her nostrils. She recalls the moment she asked to look in a mirror after returning home from the hospital. “My mother refused and told me I was still beautiful. She said I could look in the mirror later. Then my little sister accidentally put a mirror in front of me and I saw it. I cried and howled and screamed.” For a year, Dolly ignored the gentle encouragement from her mother, to try venturing outside the house. Dolly’s life changed when her family heard about Sheroes. Here she met another survivor called Sonia, who changed her view of the attack. Dolly said, “She told me that I wasn’t the one who needed to keep my face covered since I hadn’t done anything wrong.”

o. Madhu’s Interview

Madhu is an acid attack survivor. He was attacked on November 12, 1997 when she was only 17 years old. She was intelligent girl and wanted to pursue her studies but acid attack ruined her life. She was attacked by a stalker names Vikas. He was a jilted lover. He proposed Madhu for marriage. But Madhu rejected his proposal. On rejection, Vikas felt humiliated. he asked her several times to marry him or warned her of the dare consequences. But she always ignored. Madhu got engaged to another boy. When Vikas came to know about Madhu’s engagement, he became furious. On the fateful day Madhu was returning from college the Vikas poured acid on her. She was in extreme pain she fainted immediately. She was admitted in the hospital for long time. According to Madhu, in our society, men are considered as superior. They are brought up stubborn. They get whatever they demand. So they are not ready to say “No” and when any girl say “No” to their proposal, she have to face dare consequences. After attack, her whole life was change. She was feeling ignored by everyone. She didn’t receive any kind of help from government. She didn’t file any case against Vikas because he threatened to kill her family. Moreover, she was from backward area, where people use to say it’s her own fault. Her family use to tell people that her face was ruined due to accident with fire, when asked. She left her studies. She was shy to go outside. Life was not easy for her, after attack. It was not possible to get job with such face. People ignored her. The only good thing happened to her was that her fiancée kept her promise. He married her even after the attack. Though her in-

laws family was not Cooperative but her husband always supported her. They are married for 17 years and have three children. Presently, Madhu is working with Sheroes Hangout. She has gained her confidence back. She wants to improve the society.

p. Tarana's Interview

Tarana became another victim of the changing definition of love in September 2013 when her former lover broke into her house and threw acid on her. The lover could not do anything about her mother's dowry demands, but was agitated with banana's marriage being fixed with someone else. Tarana, for sure, will fear love and distrust humanity for a long time to come. Being poor has put her through this misery and if she does not get any financial help soon, the acid will burn her life to such an extent from where healing it will seem even more difficult.

q. Neetu Mahor's interview

Neetu was only three years old when she was attacked with acid. She was attacked on 16th July 1992 while she was sleeping with her mother. She was attacked by her own father. The reason behind the attack was only that she is a girl. Her father wanted a son. He thought that Neetu's mother can never give her a son and she has burdened him with two daughters. So with the intention to reduce his burden by killing his wife and two daughters, he poured acid on them. Neetu's younger sister succumbed to injuries and died. Neetu's face was disfigured after the attack. She is nearly blind. She couldn't see clearly. She can just see that someone is standing or sitting nearby her. She couldn't see the person or colours clearly

r. Rupa's Interview

In 2008, Rupa's step mother poured acid on her face while she was sleeping in her house in a village near Muzaffarnagar, Uttar Pradesh. Rupa was only 15 years old. The acid did not just burn her skin and her physical self; the unimaginable pain and trauma the acid carried along with itself seeped into her dreams, her childlike spirit, and her belief in a better future. Rupa didn't have a family to look forward to. She started staying with her uncle who came to her

rescue at the right time. Confined within the walls of her new home, she stopped going out, and refrained from all forms of interactions. Her uncle bore the cost of her treatment and surgery, but with a disfigured face, her state of depression continued. It was around this time when she first heard about the ‘Stop Acid Attack Campaign.’ Driven by a new-found curiosity, she participated in it. She met victims like herself and received rigorous counseling and training. She was told that she too can live a normal life, that she is a fighter and not a victim. With new found confidence, her life gradually changed.

6.3.1.2 Medical response in acid related violence against women

Taking note on Supreme Court directions in **Lakshmi vs Union of India**, the Government of Uttar Pradesh in a government order dated 23rd May, 2014 notified all district/combined hospitals, community healthcare centers and Chief medical officers of all districts that 100% cost of the treatment of all victims of acid attack shall be borne by the state exchequer. Acid attack victims shall be insured pro-bono medical assistance in all government hospitals.²⁸ Further in a government order dated **10th August, 2016**, the Government of Uttar Pradesh reiterated that the treatment of the acid attack victims, including plastic surgeries, corrective surgeries and psychological counseling, shall be provided on complete government exchequer at all medical colleges and Universities.²⁹ In addition through a government order dated **27th May, 2016**, the state government revealed that it had proposed a 25 specialty ward in the department of plastic and reconstructive surgery at king George Medical College, Lucknow for which a grant amount of INR 559. 41 lacs had been sanctioned, and filed in a counter affidavit in the case concerning the PIL of **Muhim Vs. State of Uttar Pradesh and others.**^{30 31}

In this category, out of 25 respondents (doctors), 25% doctors were skin specialists, 40% were general physicians, 20% were forensic experts, 5% were Critical Care medicine specialist and 10% were surgeons. The researcher faced problem in collecting information from doctors, especially in the private hospitals.

²⁸G.O. by Government of U.P. No-346/1-14-3(11)/14 dated 23.05.2014

²⁹G.O. by Government of U.P. No-3315/71-2-16-79/15 dated 10.08.2016

³⁰G.O. by Government of U.P. No-1824(i)/71-2-16-79/15 dated 27.05.2016.

³¹PIL No. 18294 of 2016

Chemical burns contracted by acid attack on the body take multiple levels of Management and treatment. As discussed in detail earlier in the chapter, physiological medical treatment in cases of acid violence has multiple components. While adequate restoration of functionality and reconstruction of the “normal” may take sustained period of time and expansive surgical and physiotherapeutic procedures to become tangible, emergency response goes to a long way in determining how effective the later stages of treatment might be. The scope of this study, therefore, concerns itself primarily with the quality of emergency response and treatment in medical institutions.

“Affected area has to be cleaned with fluid, than ointment is applied to relieve pain and prevent infections, then we monitor the patient’s condition and decide on further process for treatment.”

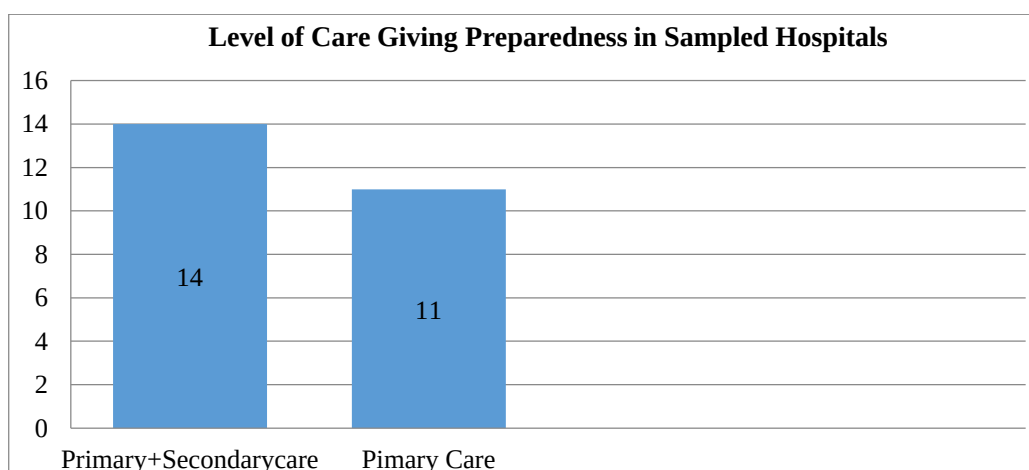
- **Doctor, Department of Burn, Plastic and Reconstructive Surgery, Aligarh**

“Only primary treatments in cases of acid attack are given and then they are referred to Lucknow or Delhi. There are services of 102, ALS ambulance available for transportation of the patient. Acid attack makes the hands and neck susceptible to infections and there is a lot of water loss from the body. In order to address these issues, antibiotics are administered and transportation is quickly facilitated”.

- **Doctor and Nodal Officer of Medical Board, Jhansi**

- **Caregiving preparedness-** As is accepted by the testimonies, it was understood from the sample interviews that all hospitals are well equipped with infrastructure and medical professionals with robust knowledge regarding what kind of primary treatment is needed in cases of acid attack. All the doctors in the sample explained that primary care in acid burn follows standard procedures for chemical burns and elementary knowledge of burn management was enough to ensure immediate relief. Guiding principles of burn management in the primary stage with respect to monitoring airway passage, breathing and circulation, need for IV access and assessment of the wounds were efficiently done in all the hospitals I were able to sample. However, the major challenge arose with respect to

secondary levels of treatment. Acid attack may often require multi-specialty intervention from doctors even in the healing stage, monitored in specialised burn unit with technical infrastructure available at the disposal of the doctors. The sensitive nature of the wounds requires special attention in more incubated settings to prevent exposure to infections. This calls for dedicated infrastructure and staff, including dressers, staff nurses and multipurpose workers such as a staff orderly/ nursing attendants/ Safai karamcharis. Thus it becomes imperative in the healing stage of the survivor to be present in burn units specially created for the purpose of catering to highly nascent burn wounds. The absence of burn units or the lack of proper facilities in the ones that exist often pose a huge challenge in the treatment procedure. If hospitals where the acid attack victims approach first are not equipped to provide intensive burn care, they are referred to other hospitals, introducing the need for monitored transportation in the midst. In sensitive Burn cases, such transportation is often risky because of susceptibility to infections and painful for the victim. In addition, as conversations with my sample of survivors suggests, the transportation costs might not always be covered by the hospital. Thus, while the Supreme Court guidelines to account for primary care and further transfer of the victim; it is advisable for hospital to equip them to handle cases of acid attack beyond primary treatment.



- **Psychological support and care in the medical system-** Another important finding during the study was with respect to the psychological

support and care for the survivor within the medical response system. A glaring absence of any professional, specialised psychological support was evident in our interactions with medical stakeholder and Institutions. Almost all the doctors interviewed informed us that no specialised counseling services were available for the acid attack survivors in their respective hospitals. One of our respondent doctors informed us that the counseling for acid attack survivors was only facilitated by the one stop crisis centers (Asha Jyoti Kendra in Uttar Pradesh). Majority of the doctors remarked that counseling for acid attack cases was either not done at all or was done by the doctors themselves. This creates serious concern in terms of effectiveness of the response mechanism. Counseling and Psychotherapy can help the survivor make informed decisions regarding medical treatment procedures on her body and greatly aid in trauma management during the healing process. In-situ psychological counseling for both the survivor and her family members may help in enabling further psychological rehabilitation following relocation from the hospital to the home. Medical practitioners facilitating the process of counseling may not only be ineffective but might also raise ethical concerns regarding their own location within the medical relationship with the survivor. While the sorry state of Mental Health infrastructure and personnel management explains the absence of any such services in cases of acid attack, it does not go on to justify it. In fact, it calls for an urgent creation of a response plan for the same, even as the importance of psychological counseling is consistently reiterated in the Supreme Court orders and government guidelines.

- **Compliance to Supreme Court Directives and Subsequent Statutes-** In terms of compliance with respect to refusal of treatment, all the doctors in the sample reiterated that they do not refuse treatment to any victim of acid attack. In cases where specialized care units do not exist in the hospital, the victim may not be admitted but is given first aid and primary care and is referred to a specialized facility upon attaining stability. Similarly, on the question of costs of treatment procedure, medication, bedding and food, a range of responses was obtained. It was seen that in

hospitals where burn unit were present and secondary treatment interventions were done, the doctors had fair knowledge regarding the government directives and were providing all these amenities free of cost. However, in most hospitals where only primary level intervention was being done, the doctors were either unaware or confused regarding the range of services that the survivor was entitled to following the Supreme Court orders.

“Food, bedding, surgery, medicine, all this is free. One year back, it was directed by the Supreme Court that each and every medicine will be provided by hospital only. Before this order, patient had to arrange everything, with their own.”

- **Doctor, Department of Burn, Plastic and Reconstructive Surgery,
Lucknow**

“All facilities such as food, bedding, treatment and medicines are provided free of cost even expensive medicines that we might have to get from outside are not charged.”

- **Doctor, Balrampur Hospital, Lucknow**

“There are separate ward for acid attack survivors. Food, surgery, few medicines are provided free of cost.”

- **Doctor, New Surgery Department, SN Medical College, Agra**

“I am not sure regarding the costs. I don’t think there are any special facilities here for acid attack survivors as such. If there are, I am not aware.”

- **Doctor S K Gulati’s Hospital, Kanpur**

Finally, with respect to the provision for issuing of medical certificate the interviews brought out that most doctors were either unaware of the supreme court directive regarding the same or were confusing the certificate with the medico Legal procedure. While the supreme court and government guidelines mentioned clearly state that the survivor shall be issued a medical certificate in the hospital where she is first treated stating that she is a victim of acid attack which she may use for further treatment

or schemes, none of the doctors we spoke to seem to know of such a provision. Rather, it seemed that the respondents were mixing up the procedures for obtaining no cost treatment with that of assessing compensation, where the certificate of the CMO might be needed. Thus, none of the respondents were actually exhibited any clarity regarding how any of the costs of treatment were actually being covered, even though the provisions for the same are laid down under the supreme court directives as well as the Rani Lakshmi Bai Mahila Evam Bal Samman kosh scheme. Some of the conversation with the doctors in this regard was as follows:

“From our side we only give discharge card. Medical certificate is not part of our job. It must be issued by the CMO.”

- **Doctor, department of burn, plastic and reconstructive surgery,
Lucknow**

“Panel of medical team from, eye, ear, skin, ortho examine the degree of burn of Survivor and then issue medical certificate. But that is not done here; it is the medical officer’s responsibility.”

- **Doctor, Medical college, Jhansi**

“The medical certificate is only issued by the medical department. The doctor merely writes the details of the burn and the CMO verifies the same. It takes 2-3 days, but survivor’s family has to get it done if they seek separate certificate. Otherwise in the reports percentage of burn is written.”

- **Doctor, New Surgery Department, SN Medical College, Agra**

In conclusion it is worth noting here that while there seems to be a fair degree of awareness regarding the rights and entitlements of the survivor within the medical community, there is a lack of translation of the same into practice. My experience of speaking to survivors in Sheroes Cafes brought out discrepancy between the claims from within the medical system and those of the survivors. Most survivors continue to face exploitation in the healthcare system, incurring heavy emotional and financial costs within the same. The procedural fault lines such as lack of

clarity on the process of issue of medical certificates or reimbursement of costs to hospitals deprives the survivors of their rights to free Medical Services later in their treatment procedure. This becomes especially worrisome in cases where survivors might need life saving corrective surgeries later. Most survivors we came across did not even want to get cosmetic reconstructive surgeries done because of the concerns regarding expenses. In addition, the unanimous preference of the survivors for private hospitals speaks volumes about the infrastructure and practices of the public health sector. While most survivors access government hospitals for emergency relief, they soon prefer to avail privatized healthcare services because of the more comfortable interface, quality of care and practice and state of art infrastructure. However, it is perhaps the easier navigation around accountability for the private sector and the lack of awareness among the marginalized survivors and their families regarding her rights that enables healthcare system to exploit the survivor and infringe upon her rights and entitlements. And this is definitely not to absolve government healthcare services of their transgression at the cost of.

Figure 6.52 Showing who the perpetrator of acid attacks according to Doctors are:

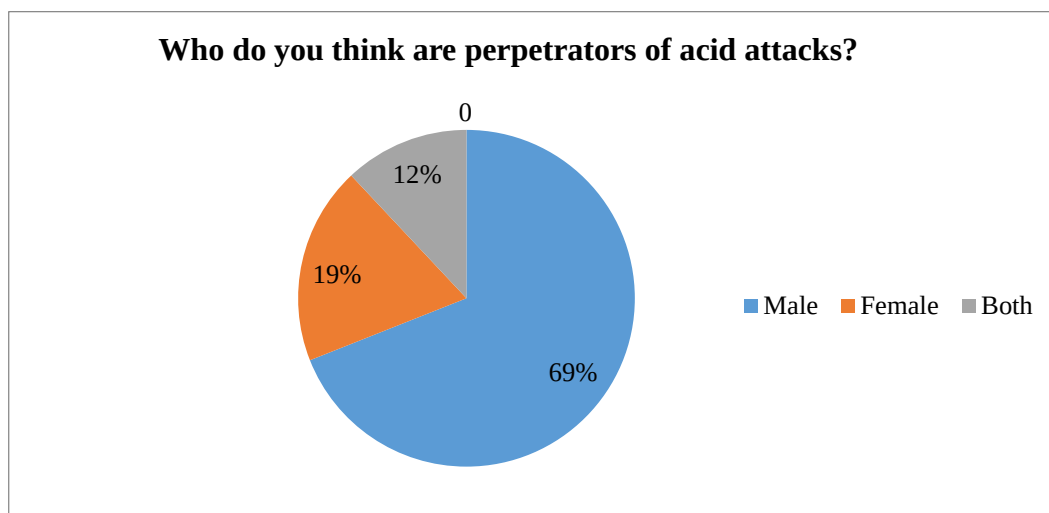


Figure 6.52. indicates that who the perpetrators of acid attacks according to the doctors are. According to the 69% respondents, the perpetrators are male,

according to 19% respondents, the perpetrators are female, and according to 12% respondent the perpetrator are both male and female.

Figure 6.53 Showing reason of acid attack

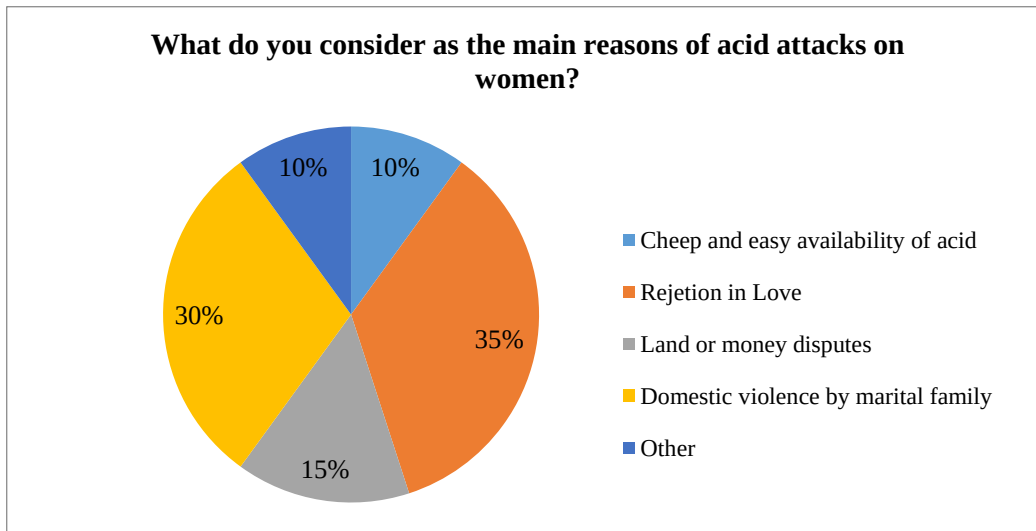


Figure 6.53 indicates the reason of acid attacks on women according to doctors. According to 35% respondents the main reason of acid attack is rejection of advances or marriage proposals, 30% says dowry demands and according to 10% the main reason is cheap and easy availability of acid.

Figure 6.54 showing whether acid attack crime is gender based:

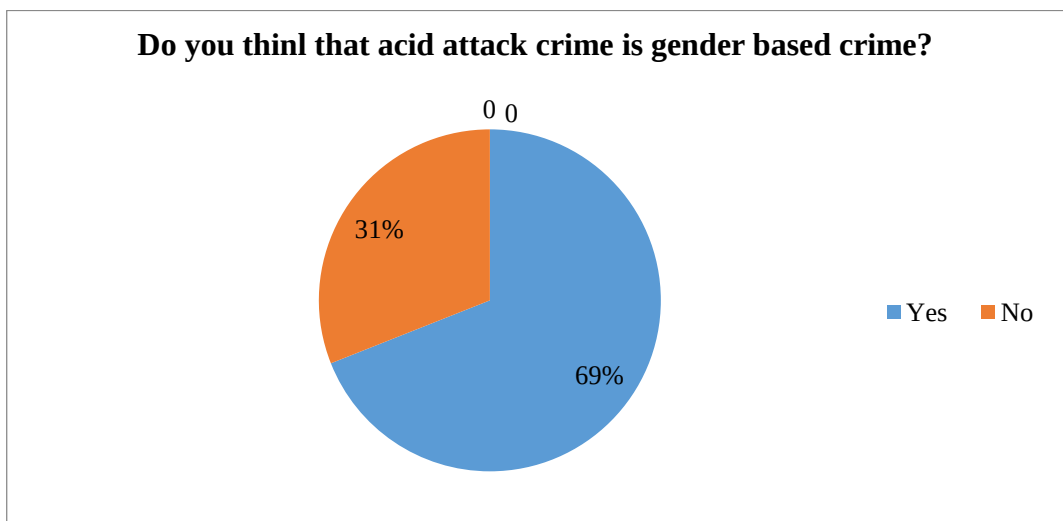


Figure 6.54 indicates whether acid attacks are gender based crime. According to 69% respondents, yes it is a gender based crime committed mainly against women.

Figure 6.55 Showing whether acid attack have life time effect on the human body:

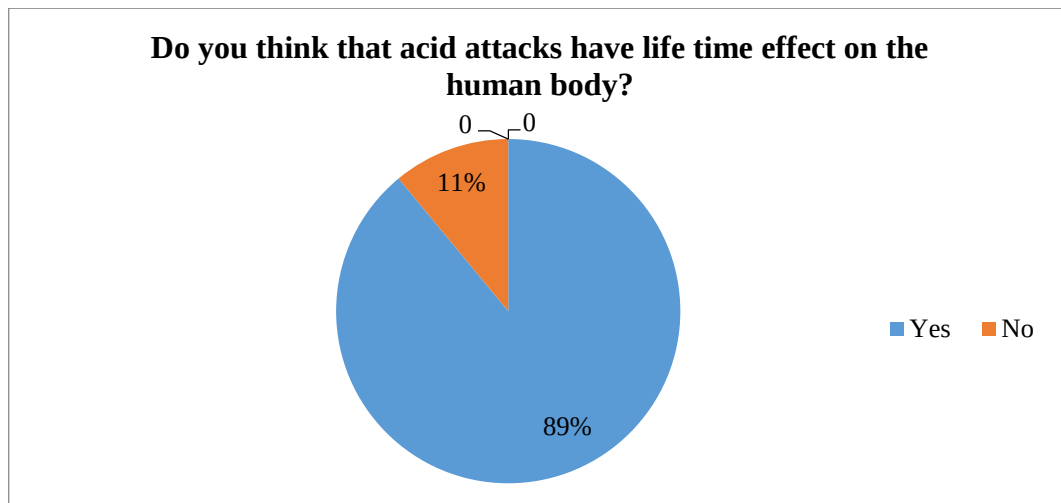


Figure 6.55 indicates whether acid attack has life time effect on the human body or not. According to 89% respondents, acid attack has lifetime Effects on body of the victim.

6.56 Showing immediate need of first aid in case of acid attack

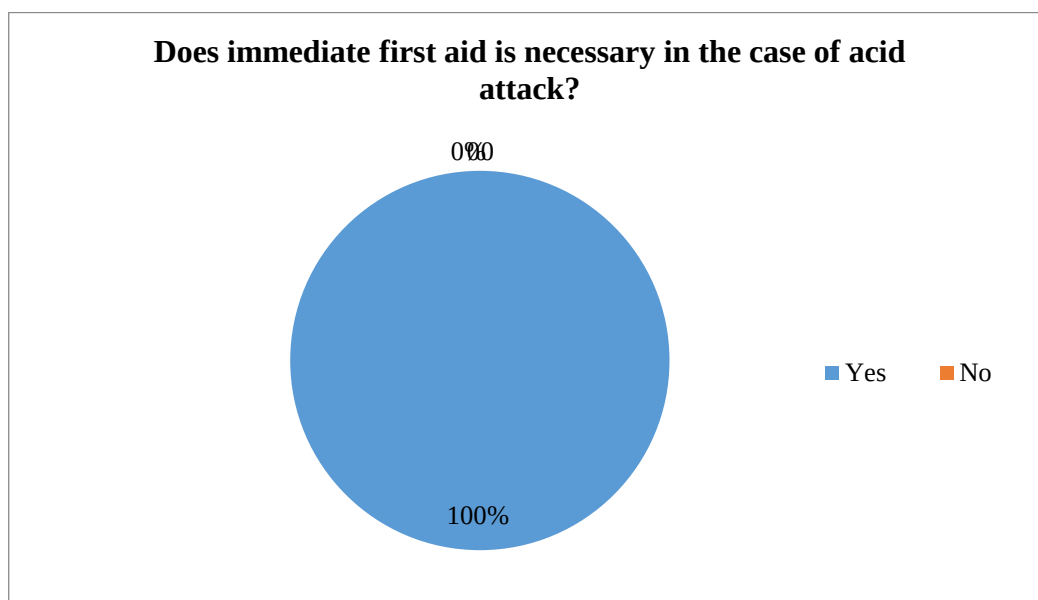
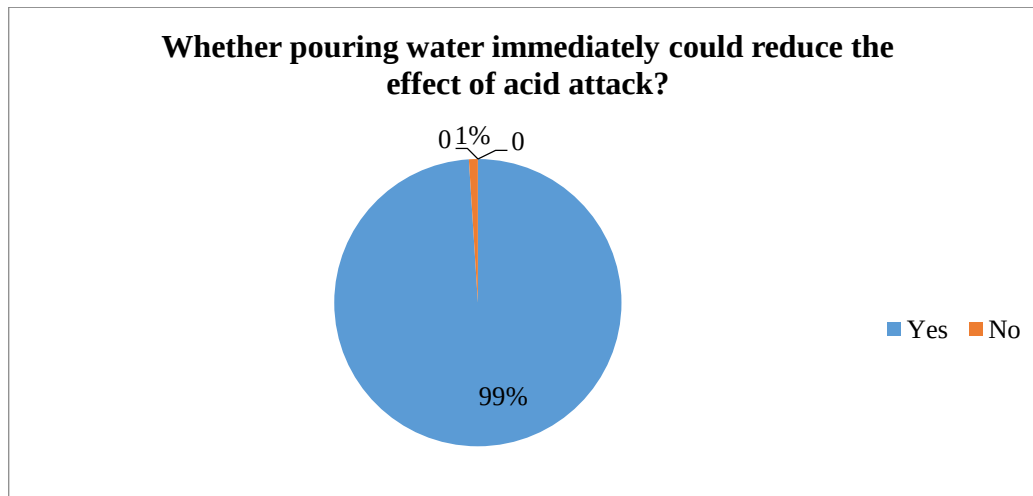


Figure 6.56 indicates whether there is immediate need of first aid in case of acid attack. According to all the respondents (100%) the first aid is required immediately in case of acid attack.

Figure 6.57 Showing whether pouring water could help in case of acid attack:



Figures 6.57 indicates whether pouring water immediately could reduce the effect of acid attack or not. According to 99% respondents pouring plenty of water on the skin immediately after the attack could reduce the severe effect of acid.

6.3.1.3 Advocates

In this category the questionnaire were filled by 50 advocates. 50% of the respondents advocate practicing in Lucknow high court Uttar Pradesh and 50% in Allahabad High Court Uttar Pradesh. All the respondents are in the age group of 24-60. It was easy to collect information from the advocates as they were very cooperative.

Figure 6.58 Showing who the victims of acid attacks according to advocate are:

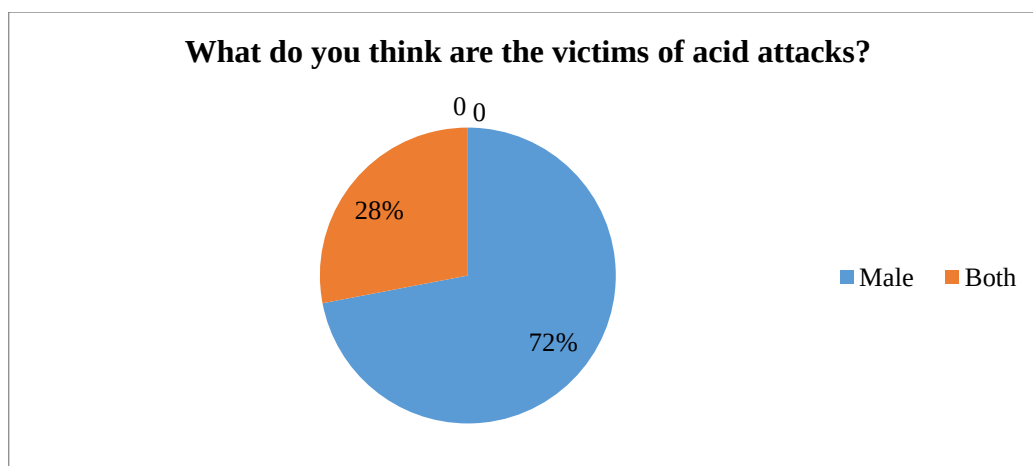


Figure 6.58 indicates the victims of acid attacks according to the advocates are. According to 72% respondents, the victims of acid attacks are mainly male and according to 28% the victims are both male and female.

Figure 6.59 Showing who the perpetrators of acid attacks according to the advocates are:

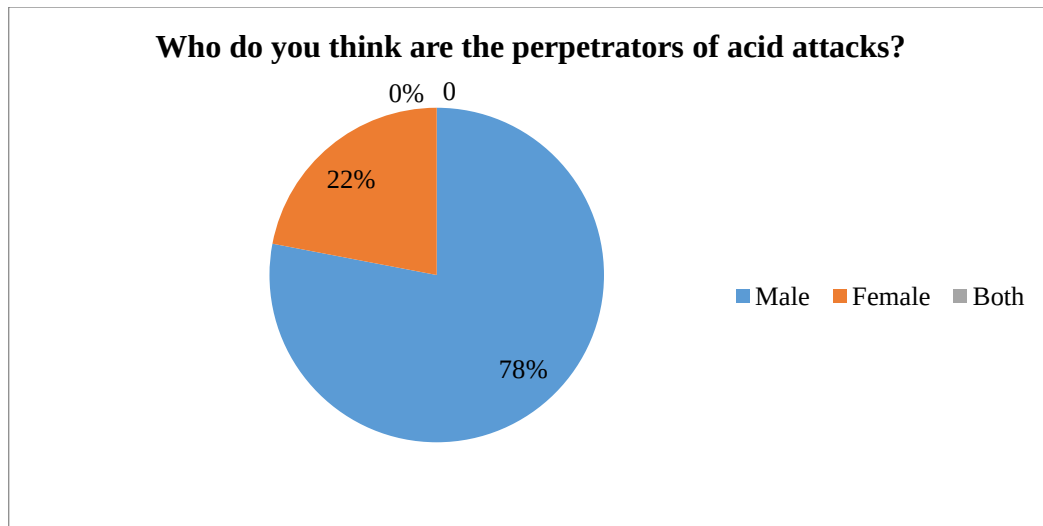


Figure 6.59 indicates who the perpetrators of acid attacks according to advocates are. According to 78% respondents the perpetrator of acid attacks crime are mainly male, and according to 22% both male and female are the perpetrators.

Figure 6.60 Showing whether acid attack is a gender based crime:

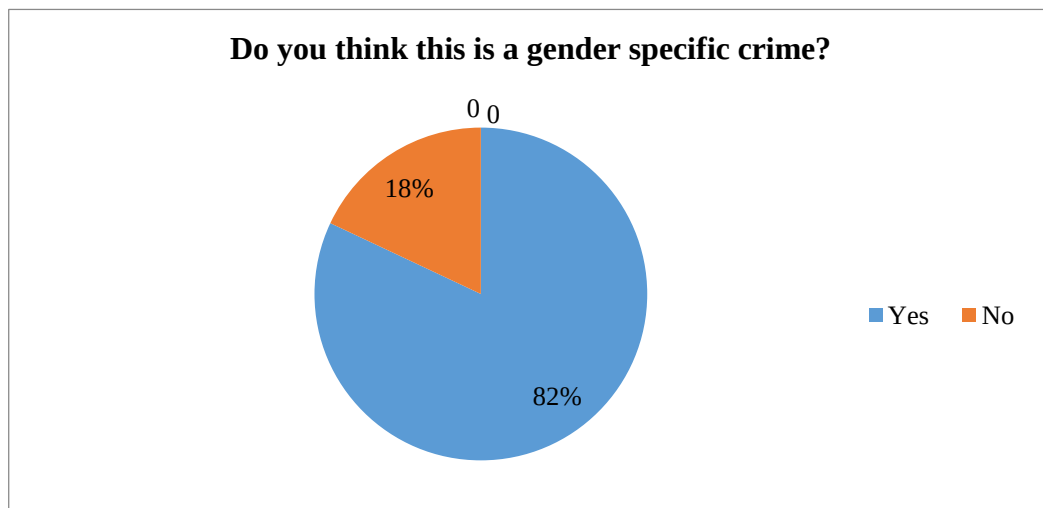


Figure 6.60 indicates whether acid attack is a gender specific crime (crime against women). According to 82% respondents, acid attacks are gender-based crime.

Figure 6.61 Showing the role of technological advancement in such crimes.

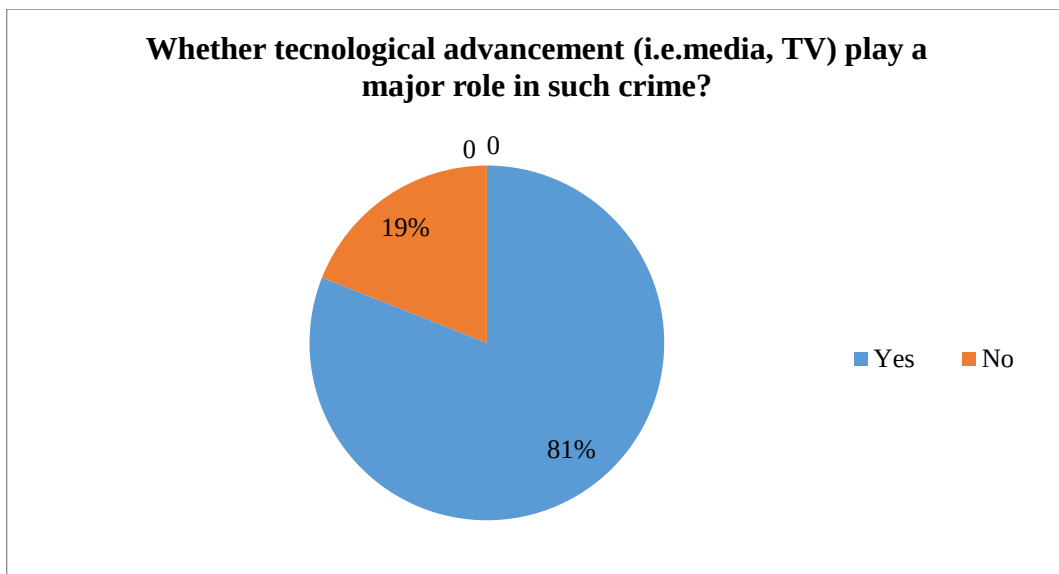


Figure 6.61 indicates whether technological advancements (media, social networking etc.) have any role in commitment of such crime. According to 81% respondents such technologies have major role in crimes like acid attacks.

Figure 6.62 Showing whether acid attacks effects society

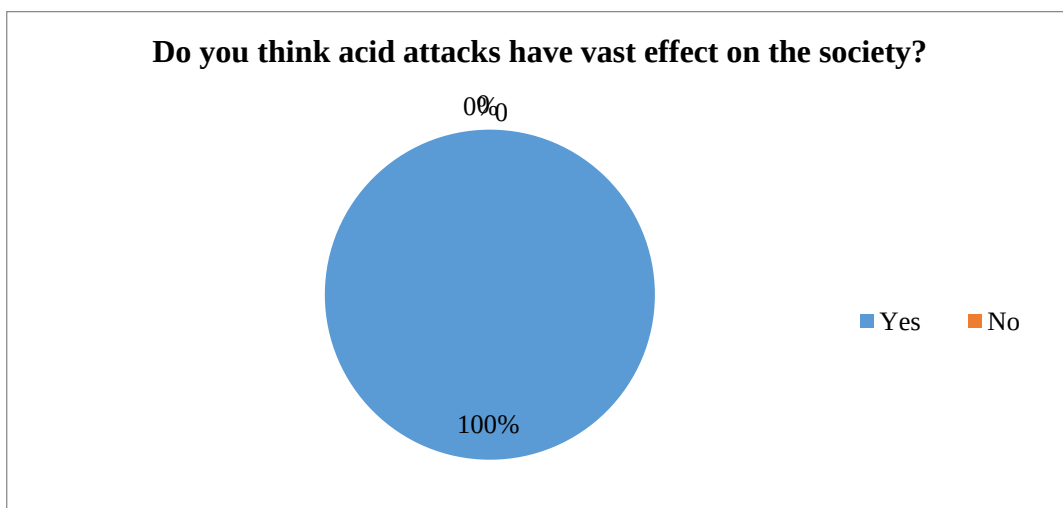


Figure 6.62 indicates whether acid attacks have effects on society. 100% of the respondents said that acid attacks have wide effect on the society.

Figure 6.63 Showing whether present laws and policies on acid attack are sufficient to deter the crime of acid attack in India:

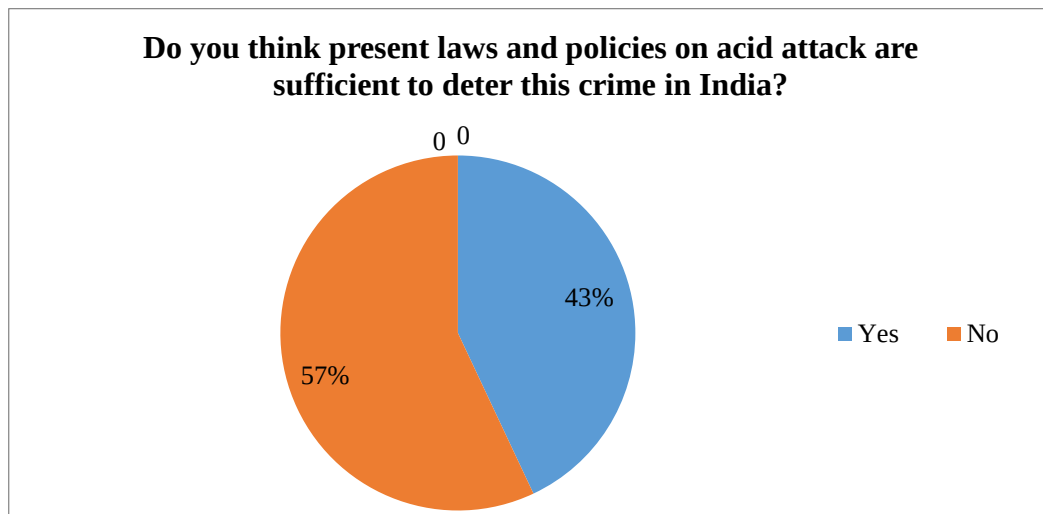


Figure 6.63 indicate whether the present laws and policies on acid attack are sufficient to deter the crime of acid attack in India. According to 57% respondents present laws and policies on acid attack are not sufficient to deter the crime of acid attack in India.

Figure 6.64 Showing kinds of punishment to be given in cases of acid attack:

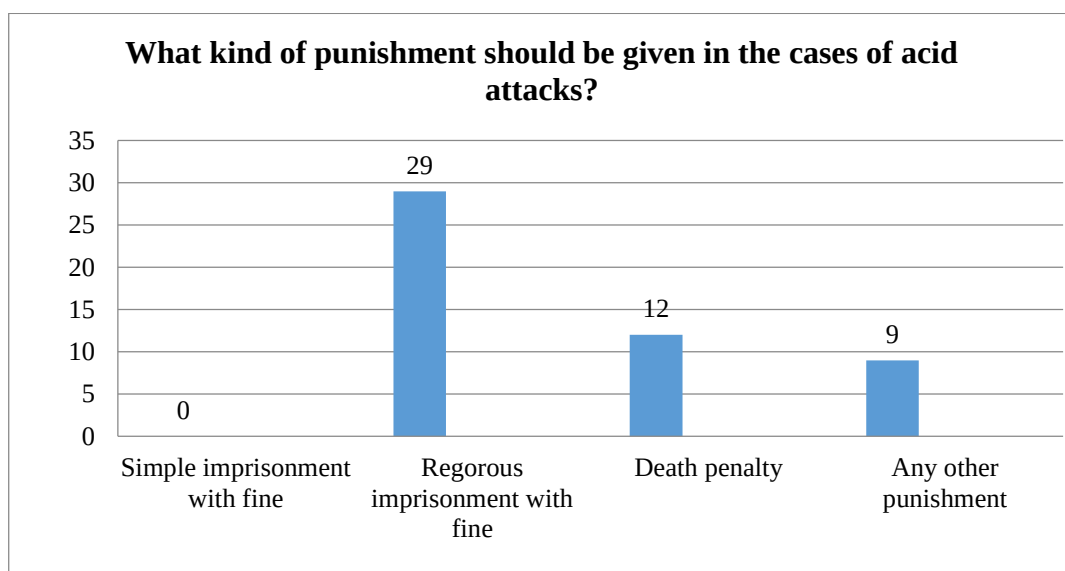


Figure 6.64 indicates what kinds of punishment should be given in cases of acid attack. According to 58% respondents, rigorous punishment should be given in the cases of acid attacks. According to 24% death penalty and 18% person suggested other punishments (life imprisonment) should be given in the cases of acid attacks.

Figure 6.65 Showing reason of acid attack according to advocates:

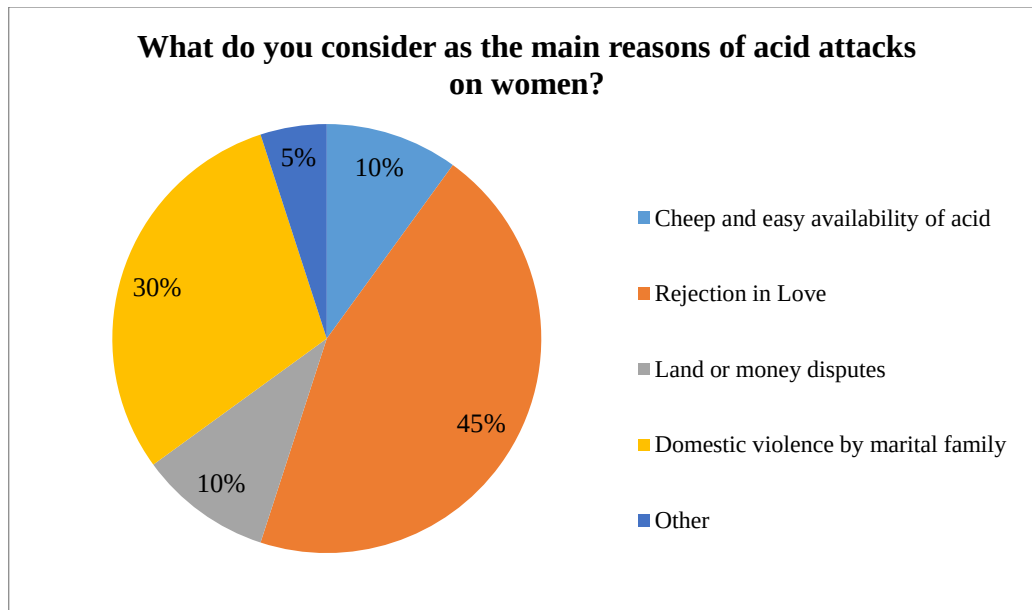


Figure 6.65 indicates the main reason of acid attacks according to advocates. According to 45% respondents, the main reason of acid attack is rejection in love and refusal of indecent proposals, according to 30% respondents other main reasons are domestic violence and patriarchal Society and male ego.

Figure 6.66. Showing the response of advocates on the ban of sale of acid

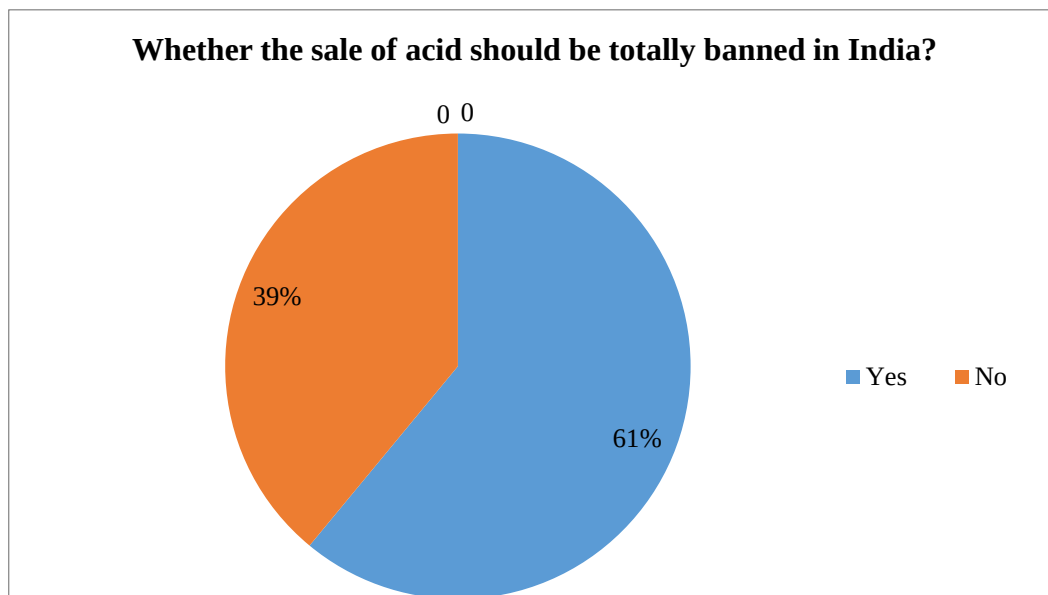


Figure 6.66 indicates the response of advocates regarding ban on sale of acid. According to 61% respondents, the sale of acid should be totally banned in India.

Figure 6.67 Showing the need of special courts in the cases of acid attacks:

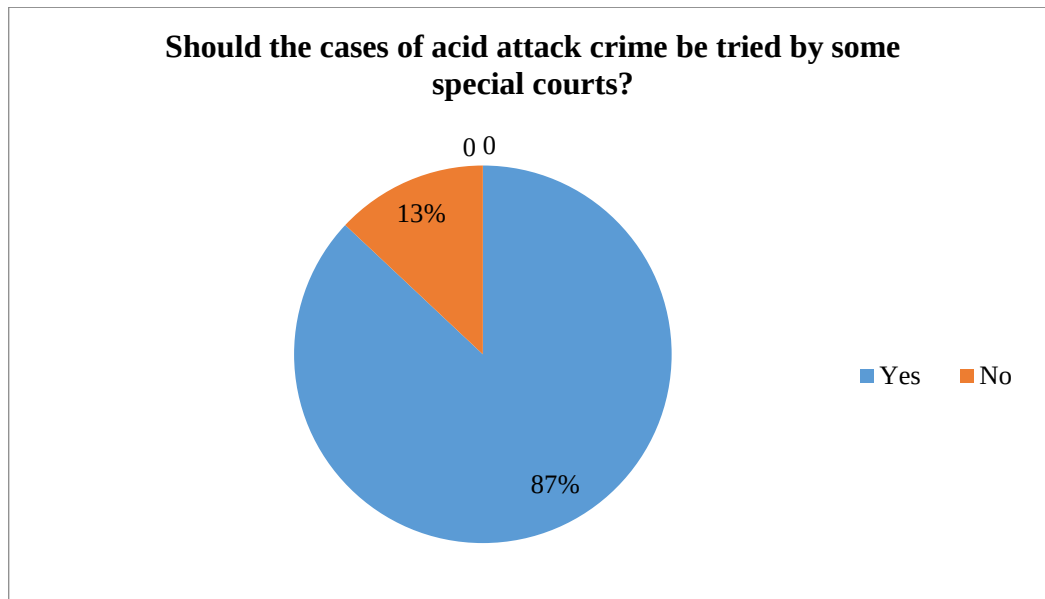


Figure 6.67 indicates that the response of advocates' cases of acid attacks should be tried by special courts. 87% of the respondents said that such cases should be tried by some special courts.

Figure 6.68 Showing the need of new reforms for the cause of acid attacks

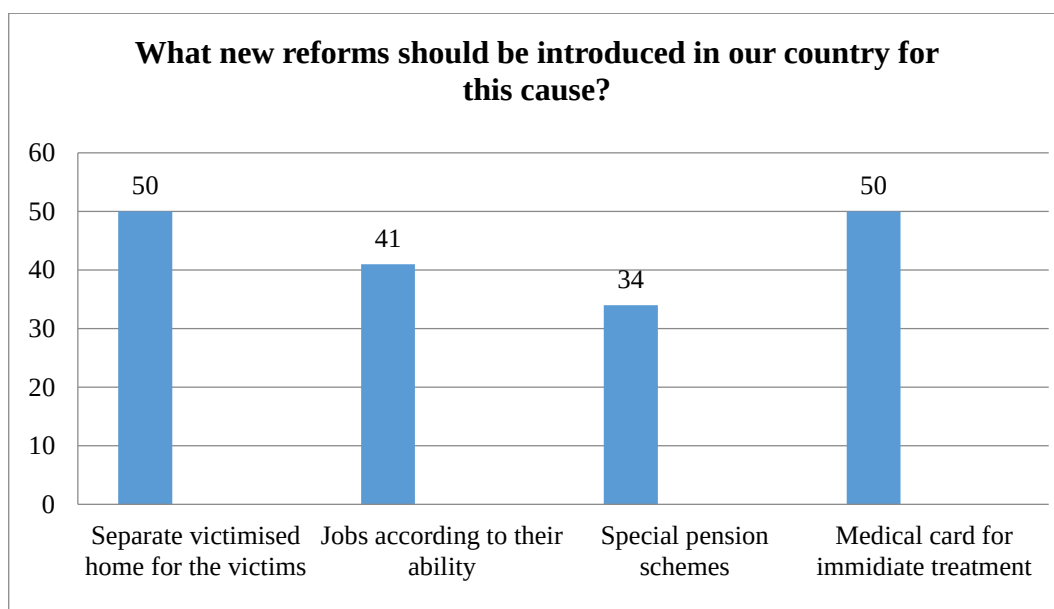


Figure 6.68 indicates the need of new reforms to be introduced in India for this cause. According to 50 respondents medical card for immediate treatment should be introduced for the victims of acid attacks. 50 respondents favoured separate victimized home for victims and 41 respondents suggested jobs according

to their ability. According to 31 respondents special pension scheme is required for the enhancement of condition of victims.

Figure 6.69 Showing the need of speedy trial in the cases of acid attacks:

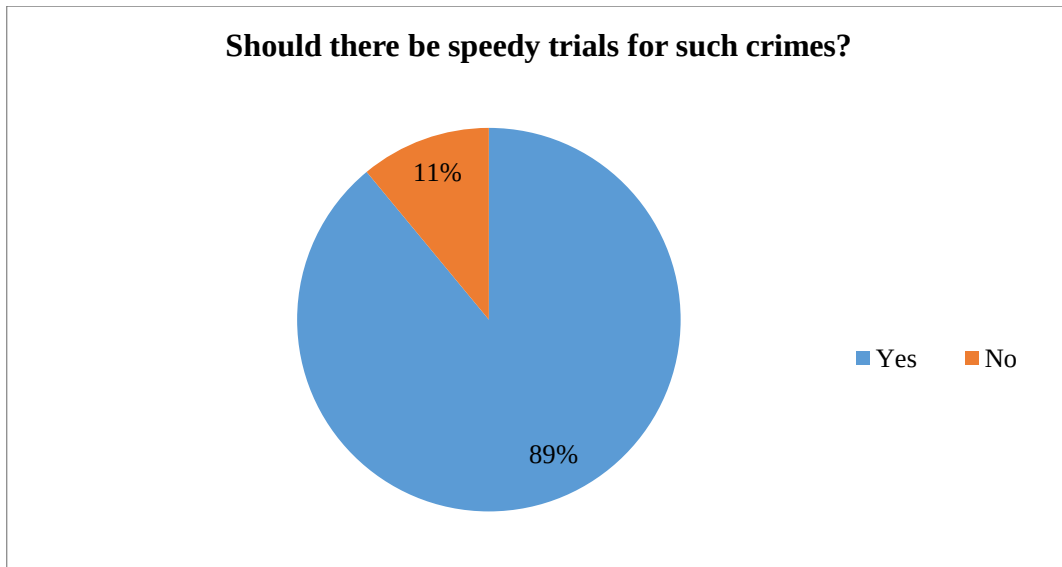


Figure 6.69 indicates the need of speedy trial in the cases of acid attacks. According to 89% respondents, there is a need of speedy trial for such crimes.

Figure 6.70 Showing the acid attacks are on rise or not

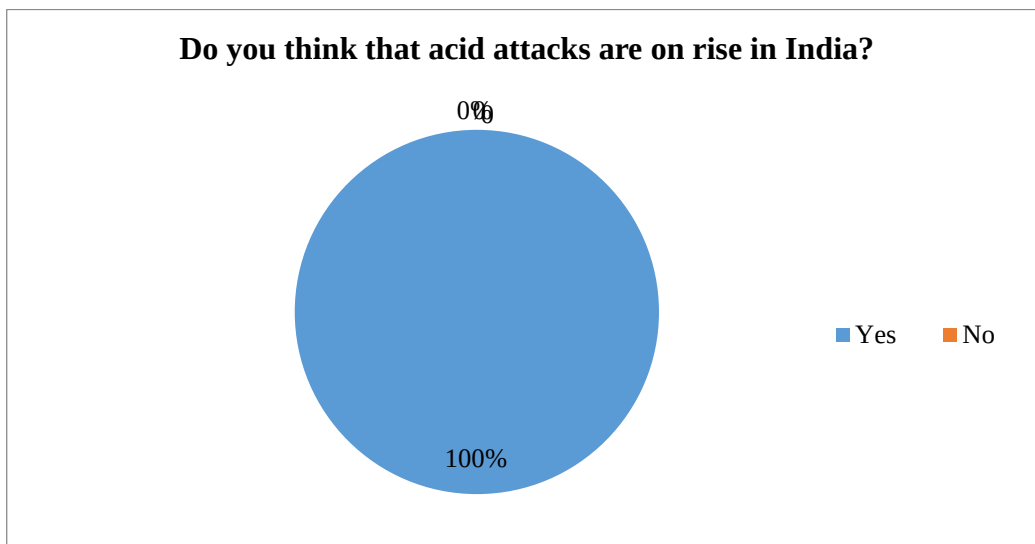


Figure 6.70 indicates that according to advocates whether acid attacks are on rise. All the respondents agreed that the incidents of acid attacks are on rise in India.

6.3.1.4 General Public

The questionnaires were filled by the general public also because it was important to understand the effects of such incidents on the general public and Society. They were total 50 respondents. The general public was hesitated in giving their views regarding acid attacks. The researcher found it very difficult to collect information from the general public.

Figure 6.71 Showing the response of general public for awareness regarding acid attacks:

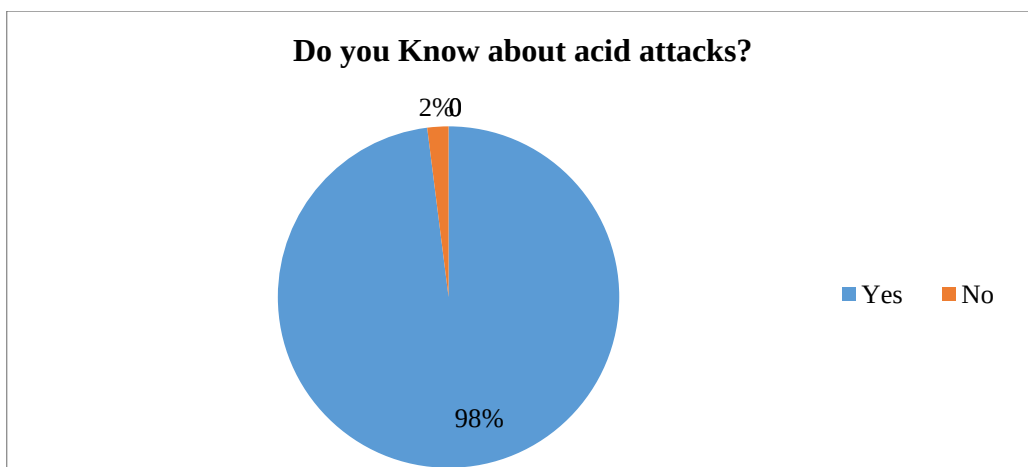


Figure 6.71 indicates the response of general public for awareness regarding acid attacks. 98% of the respondents said that they are aware regarding acid attacks.

Figure 6.72 Showing the source of information regarding acid attacks for general public:

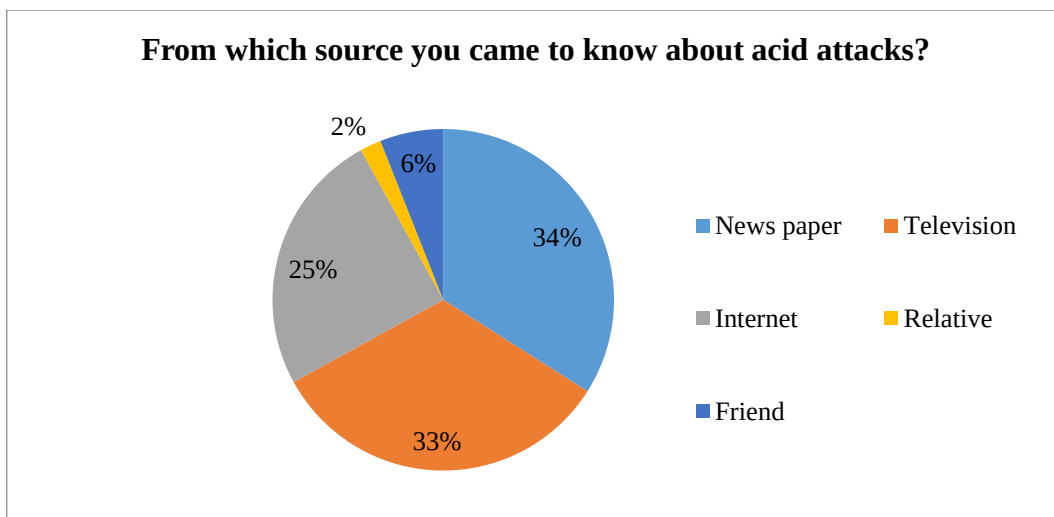


Figure 6.72 indicates the source of information regarding acid attacks for general public 34% respondents said that they came to know about acid attacks from newspaper. According to 33% respondents the main source of information regarding acid attacks is television and 25% said internet is the main source.

Figure 6.73 Showing whether acid attacks have wide effect on the society:

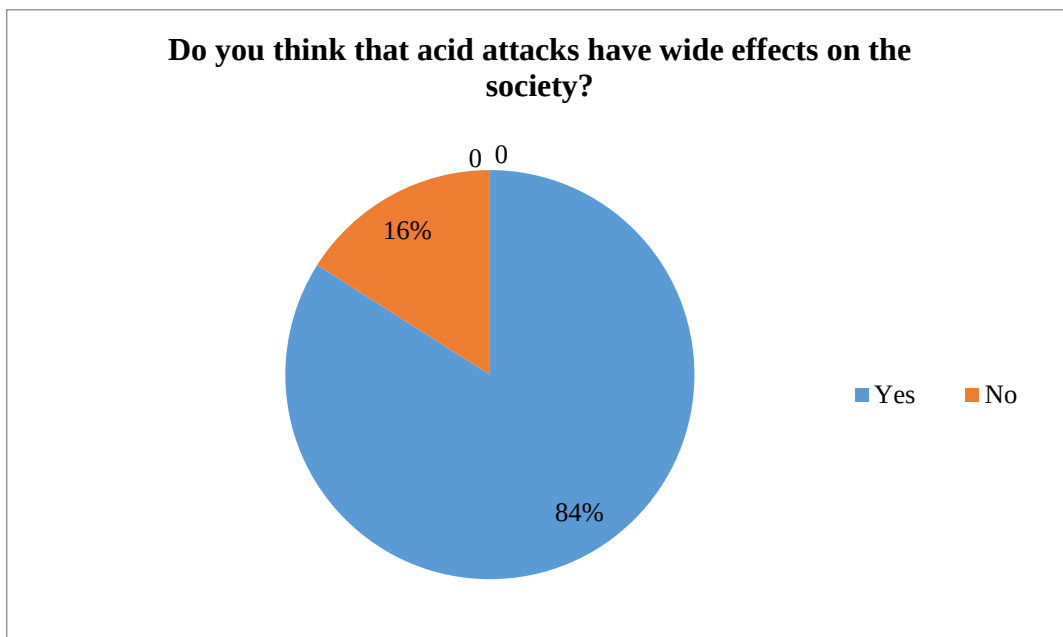


Figure 6.73 indicates the response of general public regarding the effect of acid attacks on the society. 84% of the respondents said that acid attacks have wide effect on the society.

Figure 6.74 Showing the main reason of the acid attacks according to general public:

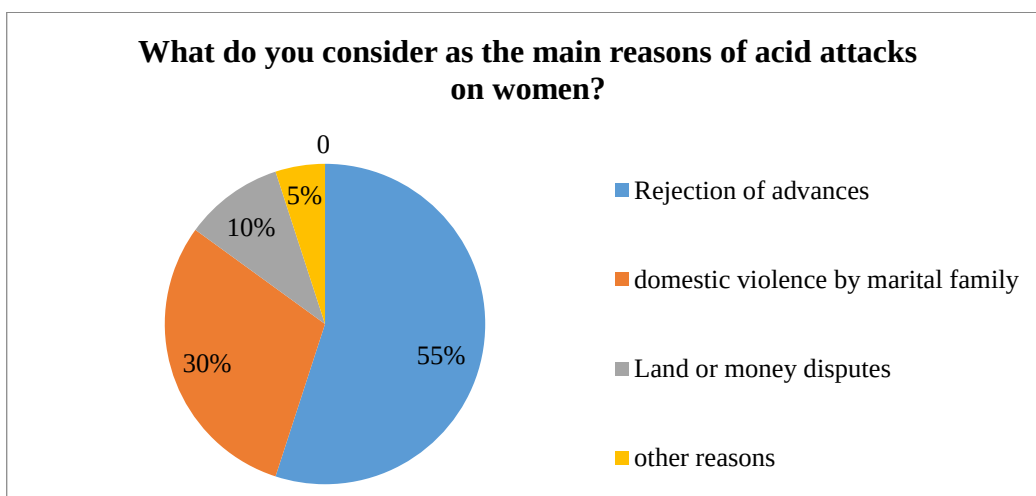


Figure 6.74 indicates the main reasons of acid attacks according to the general public. 55% of the respondents said that the main reason of acid attacks in India is rejection of advances and refusal of marriage Proposals. 45% said that domestic violence by marital family, land or money disputes and sexual crimes are also the main reasons of acid attacks.

Figure 6.75 Showing who the perpetrators of acid attacks according to the general public are:

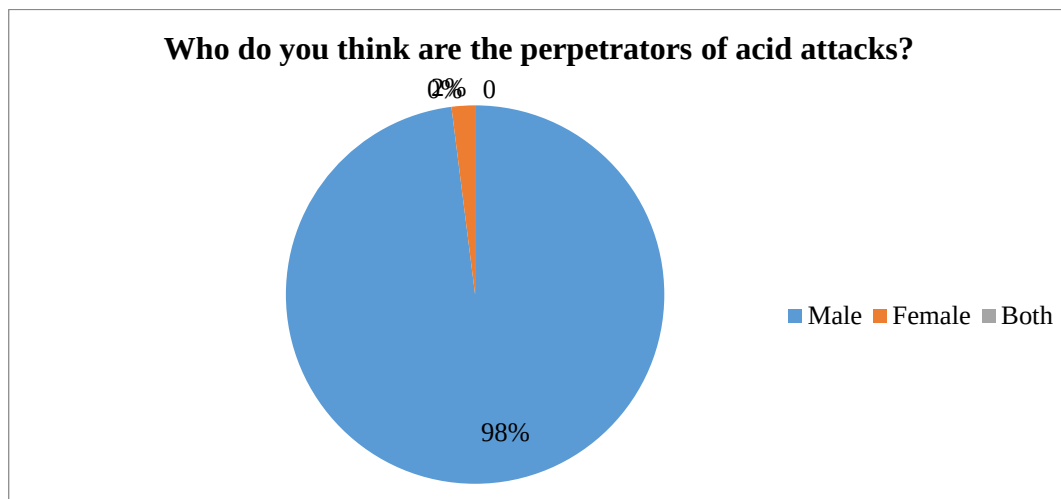


Figure 6.75. indicates who the perpetrators of acid attacks according to general public are. According to 98% respondents the main perpetrators in the cases of acid attacks are male.

Figure 6.76 Showing response of general public for whether acid attacks are gender based crime:

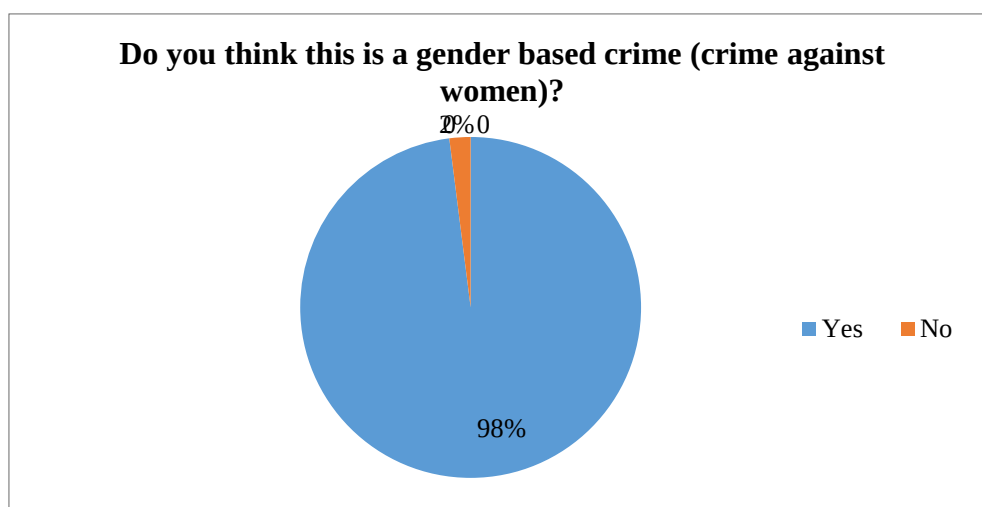


Figure 6.76 indicates the response of general public for whether acid attacks are gender based crime. According to 98% respondents' acid attacks is gender based crime (crime against women).

6.77. Showing whether present laws and policies on acid attacks are sufficient to deter the crime of acid attacks according to general public:

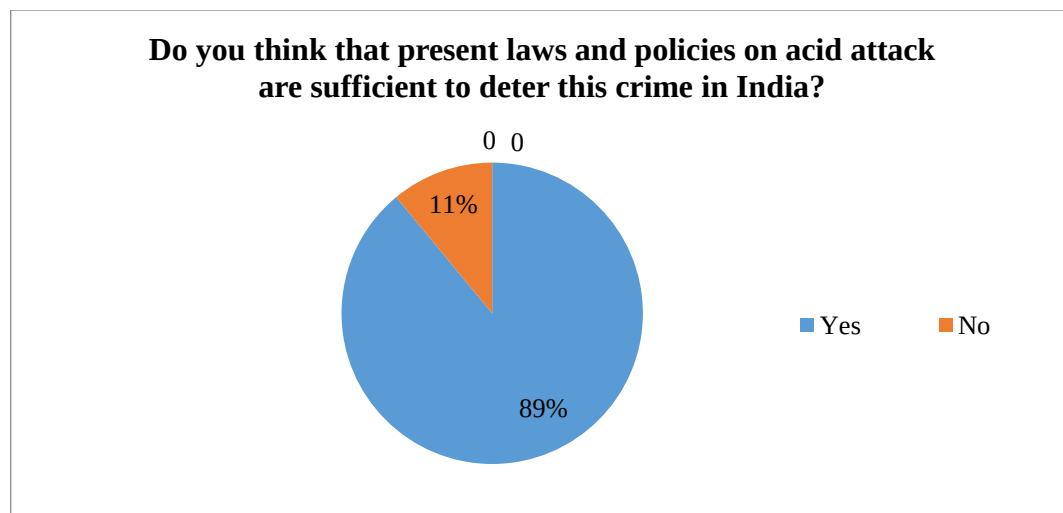


Figure 6.77 indicates whether the present laws and policies on acid attacks are sufficient to deter the crime of acid attack according to general public. 89% of the respondents said that present laws and policies on acid attacks are not sufficient to deter the crime of acid attacks.

Figure 6.78 Showing kinds of punishment to be given in the case of acid attacks:

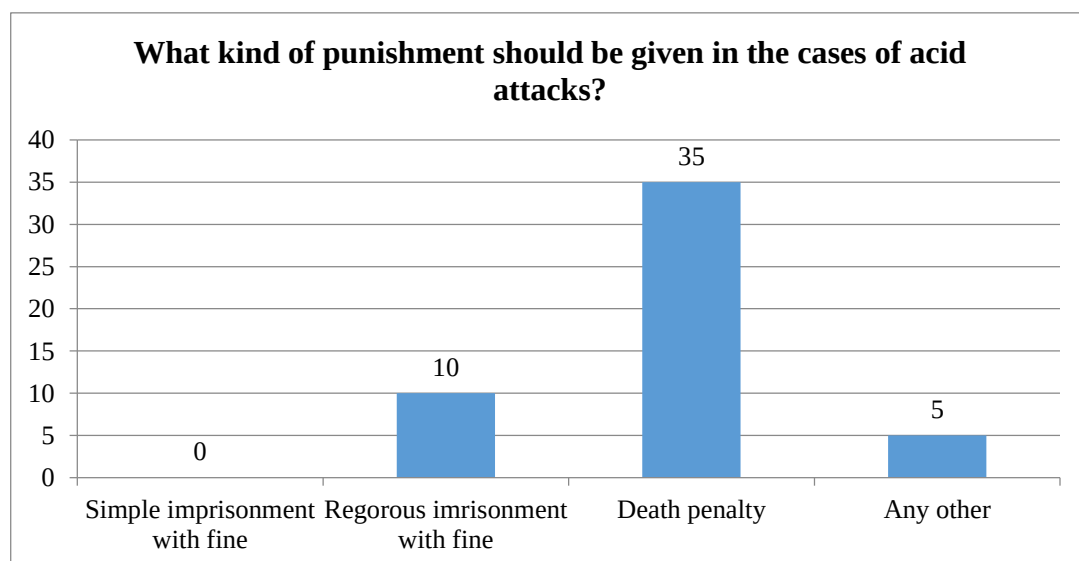


Figure 6.78 indicates what kind of punishment should be given in the cases of acid attacks. According to 70% respondents, death penalty should be given in the cases of acid attacks

Figure 6.79 Showing the awareness among general public regarding the regulation sale of acid

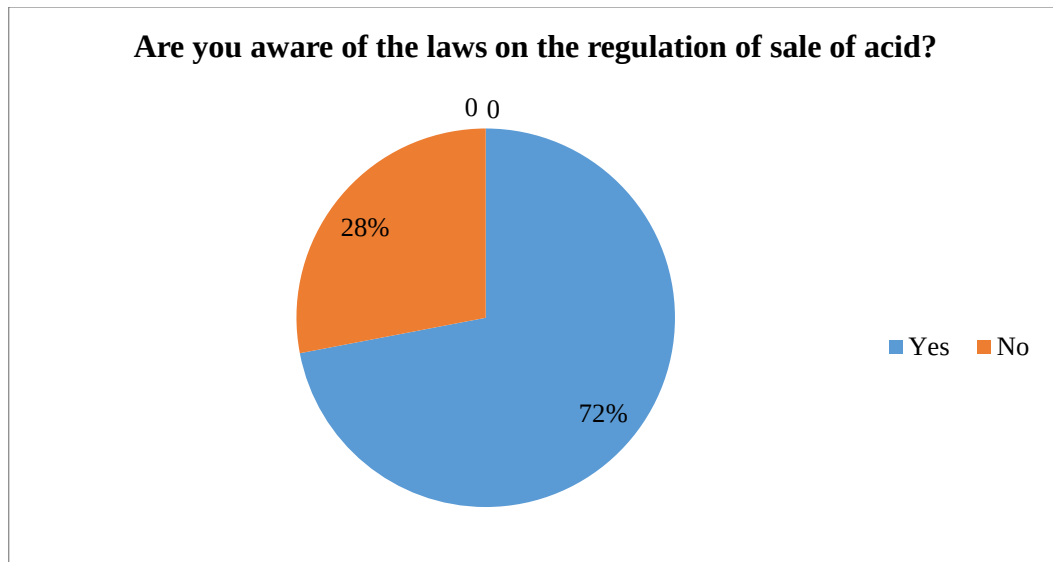


Figure 6.79 indicates the awareness among general public regarding the sale of acid in India. 72% of the respondents said that they are not aware of any rules regarding the regulation of sale of acids.

Figure 6.80 Showing the reforms to be introduced for the victims:

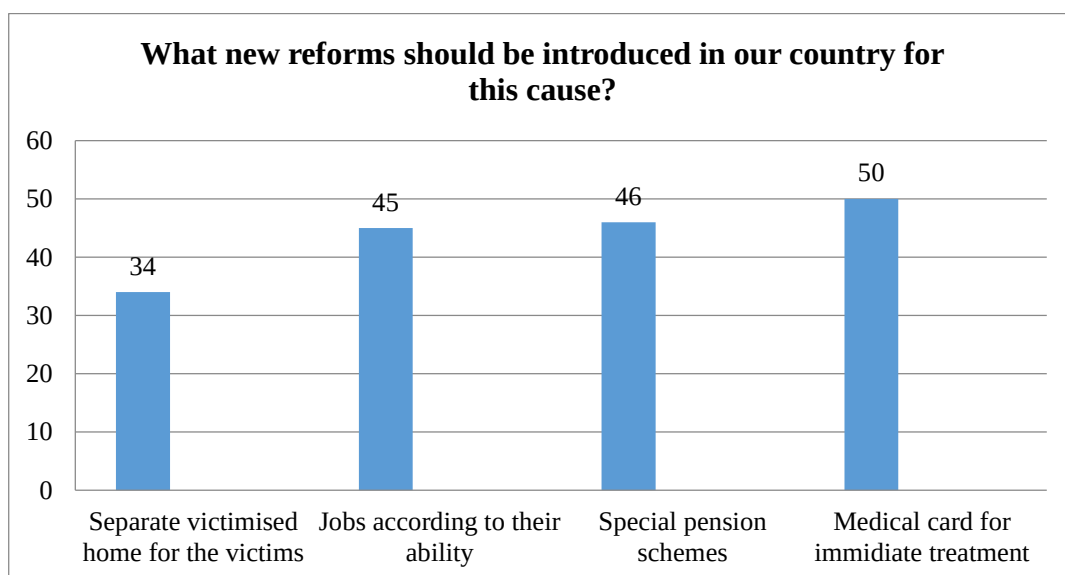


Figure 6.80 indicates the need of new reforms to be introduced in India for this cause. According to 50 respondents medical card for immediate treatment should be introduced for the victims of acid attacks. 34 respondents favoured separate victimized home for victims and 45 respondents suggested jobs according to their ability. According to 46 respondents special pension scheme is required for the enhancement of condition of victims.

Figure 6.81 Showing whether the acid attacks are on rise in India:

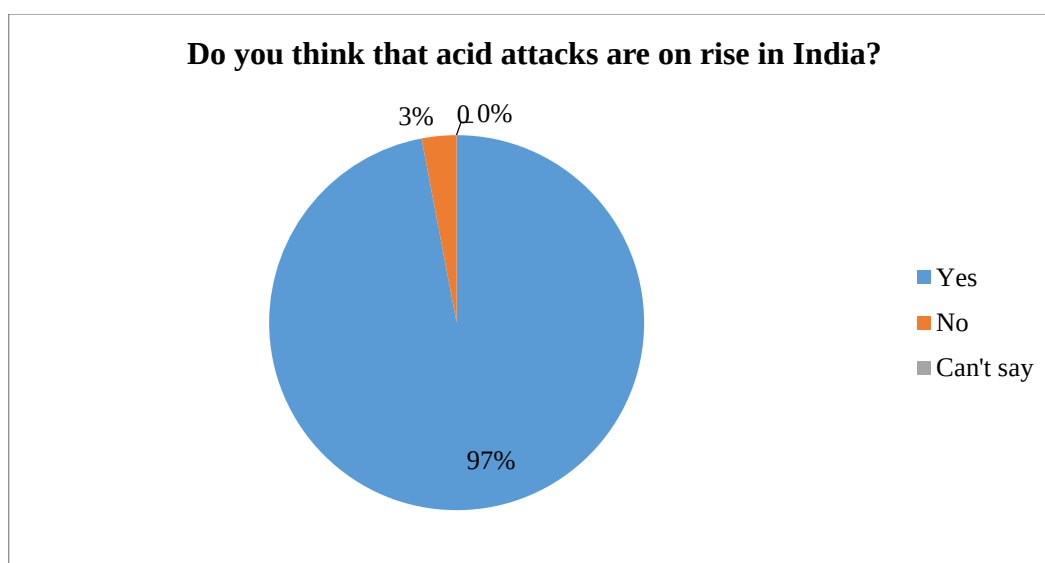


Figure 6.81 indicates whether acid attacks are on rise in India. 97% of the respondents said that acid attacks are on rise.

6.4 Acid Attacks on Women in Uttar Pradesh Role of Nongovernment Organization

The Nongovernmental organizations are playing a big role to combat the crime of acid attacks. They are helping the victims by giving them a new life. The researcher visited the two Delhi based NGO's stop acid attack campaign (Chhanv foundation) and make love not scars. Both the NGO's are doing an extra ordinary work to improve the lives of acid victims. These NGO'S are creating awareness among the society regarding the evil effects of acid attacks. These NGO'S have been working to find solution to the problem of acid attacks in India. They are talking various initiatives to improve the condition of victims by providing them rehabilitation home, medical health facilities, training, education, jobs and many

new opportunities to service. These NGO'S motivates the survivors as active and enthusiastic partners in the way of elimination of acid attacks.

6.4.1 Stop Acid Attacks (SAA)

SAA is a Delhi based campaign against acid violence. They work as a bridge between survivors and the society as most of the victims of this brutal crime have isolated themselves after losing their face. Due to ignorance of the Government and civil society, most survivors find no hope and stay like and outcast in solitude. SAA aims to research and track acid attack cases and compile a data to get the actual situation of survivors. Stop acid attack is first and only Global campaign where the survivors of acid violence are the front runners. Currently 50 acid attack survivors are actively associated with the campaign, who has taken the role of campaigners for the movement. SAA is a volunteer driven movement, working under the chhanv foundation. The campaign sustains itself by crowd funding.

6.4.1.1 Mission of SAA

SAA works with partners and shareholders towards elimination of acid and other forms of burn violence and protection of survivors' rights. The process of justice to an acid attack victim remains incomplete until she gets immediate medical, legal and economic help along with the social acceptance. Our patriarchal society has many flaws. The vision of SAA is to make the society free from this crime. They want survivors to have access to fast justice and fight back the inseparable impact of this crime.

6.4.1.2 Chhanv Foundation

The stop acid attacks campaign works to chase immediate and long term goals. Their immediate goals are providing sustenance and shelter to acid attack survivors. When SAA was launched, they noticed that many survivors, who came to Delhi from treatment and surgery, had to spend their days on the road, without any soul to care and nourish them. They realised the need for a clean, safe and comfortable environment for survivors and their families, where they could stay while receiving medical aid. This spot of shade and succor, they called Chhanv. It

provides complimentary bedrooms, a well equipped kitchen and a safe and clean atmosphere for those in dire need of it. Moreover, Chhanv is a rare meeting place for all our survivors. Where they come to share joys, sing, dance and joke, without revisiting their pain and anguish. They organise trainings, workshops, counseling and many other programs to support and facilitate the survivors. Much of this endeavor boosts their self-confidence, powers their self-esteem and sets them on a path to self-reliance. Being a campaign, their attempt is to create a wave, a flow of social awareness and sensitivity, and our continuous engagement through activities at Chhanv keeps this in motion.

6.4.1.3 Members of Stop Acid Attacks Campaign

Ashish Shukla is young and progressive member of Stop Acid Attacks Campaign. He is only 28 years old. Ashish studied Mass Communication from Delhi. He was a normal human being but participation in campaigns changed his life. After study he started campaigning among activists. He participated in Anna Hazare's campaign in Delhi, later he also participates in Nirbhaya campaign. His thoughts and work has helped the team of SAA and Chhanv. He is talented artist and a kind person. He believes one should work something good everyday so that in the end of the day he can sleep peacefully. He favors equality among men and women. According to Ashish Shukla, crimes like acid attacks can be reduced by change in society. He says it is not easy to change the society. One should change himself first, and then he can help changing others.

Durga Prasad Shukla is a member of Stop Acid Attacks Campaign an RTI activists. He files RTI's and petitions on behalf of the campaign.

Alok Dixit was a journalist but became social activists. He is member of stop acid attack campaign. Alok Dixit fights against the scourge of acid attacks in India.

6.4.1.4 The Sheroes Hangout Project

The sheroes Hangout project is planned and implemented by the stop acid attacks campaign against acid violence in India. This project aims to empower acid attack survivors by providing them jobs and as well as providing awareness

among people regarding acid attacks. Sheroes Hangout is a café run by acid attack survivors open to general public. The names survivors working at Agra sheroes Hangout Café are as follows:

1. Geeta
2. Neetu
3. Rukaiya
4. Madhu
5. Sana
6. Rupa
7. Khushboo
8. Bala
9. Dolly
10. Shabnam

There is another sheroes hangout Café in Lucknow. The names survivors working there are as follows:

1. Farha
2. Preeti
3. Garima,
4. Ashma
5. Seema
6. Rupali
7. Anshu
8. Kunti
9. Rajneeta
10. Reshma
11. Rajani
12. Gudiya

Third Sheroes Hangout is in Delhi.

6.4.2 Make love not scars

In Delhi, in there is another Non-governmental organization named as “Make Love Not Scars” which is dedicated to acid attack victims. Riya Sharma was making a documentary on acid attack survivors in India and realized that the help they are receiving was not enough. More had to be done on the ground and

the documentary would bring no immediate change. Hence, she setup a full-fledged NGO. The NGO was registered in December 2014. Make love not scars is a Nongovernmental organisation dedicated to provide acid attack victims as opportunity to regain their life on their own terms through recovery, rehabilitation and reintegration. The aims, object and purpose of this NGO are to provide complete medical, legal, psychological and educational rehabilitation of acid attack survivors. The NGO provide free medical treatment for survivors. The NGO raise funds for their surgeries, post-operative care and medicines. Apart from that, survivors are connected with free legal advice when they require and their education is paid for. The NGO pay for school, college, tuition classes as well as hold English and computer classes in their rehabilitation centre in New Delhi. They also provide collaboration with entrepreneurs where entrepreneurs teach survivors businesses like jewelry making and soap which survivors sell and earn a living on the side with.

Conclusion

The research reveals that the victims of acid attack are mostly women approximately 85% of victims of acid attacks are women and 98% perpetrators of crime are men. In most of the cases the crime is committed by a man against women. Though the provisions under Indian Penal Code provide punishment and even death penalty in some case, still it fails to deter the criminals. Despite of these strict provisions the numbers of acid attacks in India continue to increase. The crime data provided by the NCRB clearly shows the failure of laws. In 2013 the number of case of acid attacks were 66 which raised to 203 in 2014 and 222 in 2015 which is more than three hundred percent. Thus, the finding of the study clearly states that the acid attacks in India is gender based crime and it can be concluded that the present laws and policies are insufficient to curb the crime of acid attack in India. Thus the hypotheses of the research study is proved.

Chapter - 7

CONCLUSION AND SUGGESTIONS

Violence against women affects the women of all races, classes, religions, ethnic groups and nationalities. Acid violence is a life threatening problem for every woman. It is the most heinous form of **physical violence** against women which not only affects the physical appearance of the women but also the whole life of the victim because it haunts her psyche throughout life. The victim of acid violence has to face life time physical, social, psychological and economic consequences. The victim has to go through various medical complications which are long lasting. The victim's face is the main part of the body which the perpetrator wants to spoil. The aim of the perpetrator is to make the face of the victim ugly. The victims have to go through various painful surgeries but their medical complications never end there. Even after surgeries, they never get their original look of the faces back. In some cases, some acid attack results in blindness. Her eyesight is lost and she becomes wreck throughout life. Acid attack does not kill the victim but it is worse than killing because the victim becomes psychologically wreck. The incident makes the life of victim wrecked one. The victim has to face social, psychological, economic and various other problems.

Violence against women is a demonstration of historical inequality between men and women. The acid violence is related to the patriarchal society and primarily male mindset. In India the boys are brought up like a king and the girls are not given such a treatment. Women are ill-treated, humiliated, tortured and exploited in every possible way. When a male child is born, it brings happiness in Indian society but when a girl child is born, sometimes even the mother is not happy and curses herself for not giving birth to a son. It is all because of feudal mindset of the society. But sometimes the situation is even worse when the girl child is killed before birth. Female feticides' renders the girl child a victim of the gender-rooted prejudice. It means that our society gives importance to male child over female child and it results in gender inequality.

Though, the amendment has been made in Indian laws that woman too has right in the property, but still it is not acceptable by over society. The people think that only a son can get spiritual benefits for them. The harsh example of such mindset is acid attack on Geeta and her two daughters by her own husband just because Geeta has given birth to two girls. Geeta's husband wanted a boy child because of his sick mindset that boys are assets and girls are a burden just for the want of a boy, he killed his one daughter by pouring acid on her, another daughter (Neetu) got blind in childhood due to acid and is living a painful life. Geeta herself is living with scars and pain. This sickness was not over yet. Ever after the heinous attack Geeta and Neetu are living with Geeta's husband because they need a man to support them in Indian society.

Acid attacks are prevalent over the whole world including Australia, Bangladesh, Cambodia, China, El Salvador, Ethiopia, Italy, Laos, Malaysia, Nepal, Pakistan, Sri Lanka, Thailand, Uganda, UK, USA, and Vietnam. In most of the countries the reason of such crimes are patriarchal society, refusals of a relationship or marriage proposal, dowry, marital disputes, family disputes, political rivalries, land disputes etc. There are various International conventions and treaties, such as Universal Declaration of Human Rights, 1948, International Covenant on Civil and Political Rights, 1966, International Covenant on Social, Economic and Cultural Rights, 1966, and Convention on Elimination of all forms of Discrimination against Women, 1979 etc., which are relevant in the context of acid attacks and regulates such incidents. Various countries have made some policies, laws or rules to combat such crimes but Bangladesh is the only country which has enacted strict policies and very purposeful laws which proved to be successful to combat such a heinous crime.

The Constitution of India provides various provisions for equal rights and opportunities for both men and women. It also contains special provisions which protect women and give her special rights. The provisions of the Constitution manifest great respect for human dignity, equality and non-discrimination. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles and other headings. The Constitution grants equality to women as well as empowers the State to adopt measures which provide special rights to women. Although Indian

Constitution has no specific provisions relating to acid violence but above mentioned provisions provides protection against such inhuman acts.

Till 2013 there was not any specific law in India to deal with cases of acid attack. The cases were tried under the Section 326 which deals with grievous hurt. But this law was not sufficient as it failed to cure the crime acid attacks. Then, the 226th Law Commission of India proposed the insertion of new Section 326A and 326B into the Indian Penal Code and Section 114 in the Indian avoidance act. Section 326A lays down the punishment for acid throwing. The minimum punishment is 10 years' imprisonment and may extend up to life imprisonment with fine. Section 326B makes the attempts of acid throwing punishable with the imprisonment which shall not be less than five years but which may extend to 7 years, and shall also be liable to fine.

There are numerous other statutory provisions in India under Indian Evidence Act, 1872, The Poisons Act, 1919, Code of Criminal Procedure, 1973, The Protection of Human Rights Act, 1993, Prevention of offences (by Acids) Act, 2008, NALSA (Legal Services to victims of Acid Attacks), Scheme, 2016, which can be utilized to afford protection against acid attacks.

Compensation is very important part of providing justice to the victims. So, the States have come up with a Victim Compensation scheme with variations from one state to another in the amount of compensation. The Central Victim Compensation Fund scheme is aimed at harmonizing the state schemes with a minimum fixed amount of compensation for victims of various crimes.

The Indian Judiciary acts as the guardian of the rights of the people in the country. Prior to the Criminal Law Amendment Act, 2013, the offenders of crime of acid attack were not effectively prosecuted. The cases were registered under different sections of the Indian Penal Code, particularly under Hurt, Grievous Hurt, Grievous Hurt by corrosive substances, attempt to murder and murder. Compensation given was grossly inadequate. But early the courts changed the attitude towards the crime of acid attack especially after the landmark case of *Laxmi v. Union of India* (2013) Judiciary has played important role by giving various directions to the States and UT's in this case. The Court has given guidelines regarding compensation, medical treatment and many more guidelines

to curb acid attacks. The most important one is the direction to regulate the sale of acid.

It is observed that the problem of acid violence is so big that it forces the poor women to live in the four walls. Due to poverty the victim is not treated on time. They have to bear pain without any medical help. The Supreme Court of India has considered the poverty and medical problems faced by acid attack victims. To provide the proper medical facilities and treatments, the SC has made directions to provide medical assistance to the victims and even the private hospitals are bound to provide free medical treatment to such victims.

Uttar Pradesh is one of the largest states in union of India it is very important country in Asia. With the growing development of Uttar Pradesh the crime rate has also grown. Uttar Pradesh–India's most populous state reported 14.5% (49,262) of total cases of crimes against women followed by West Bengal (9.6%) (32,513 cases) during 2016.¹ Madhya Pradesh and Uttar Pradesh reported the highest incidence of Rape with 4,882 cases (12.5%) and 4,816 (12.4%) followed by Maharashtra 4,189 (10.7%) during 2016.² According to the National crime Records Bureau a total of 206 acid attacks and attempts to acid attacks were reported in the country out of the 206 incidents reported in 2016, the second highest numbers of cases were reported from Uttar Pradesh, amounting to a total number of 51 cases claiming 52 victims. In Uttar Pradesh 14 cases were reported out of 83 total cases all over India in 2011, which shows that the numbers of acid attacks are high in the state. In 2012, the numbers of such incidents were decreased to 11 but no data is available for the year 2013. Again the number increased to 55 in the year of 2014 and 66 in the year of 2015. Thus statistics from national crime record Bureau reflect an increase in the incidents of acid attacks in Uttar Pradesh.

It is observed that mostly in the cases of acid attacks there is young girl who is approached by a man for marriage, love, friendship etc. But when the girl denies his proposal the man because of his male ego is not able to accept the

¹<http://ncrb.gov.in/StatPublications/CII/CII2016/Press%20release-Crime%20in%20India%202016.pdf>

²Available at:<http://ncrb.gov.in/StatPublications/CII/CII2016/Press%20release-Crime%20in%20India%202016.pdf> visited on 17 July 2019.

refusal. He is filled with anger because he has learnt thought his life that he is superior and all of his demands are to be met. He feels insulted. His sick mentality starts thinking "How dare her rejecting me?" He starts thinking to punish the girl. Thus with anger and the sickness of mind he pours or throws acid on the face and body of the girl. Acid is thrown with the thinking to teach the lesson to every girl that you do not have right to say 'no'. The girl has no right to challenge the superiority to a male. There are number of examples in India in which the girl rejected boys' proposal and are suffering life time pain. Laxmi rejected marriage proposal and suffered the acid attack. Similarly Anshu, Rupali Ruqayya, Madhu and many other innocent girls who rejected the marriage, love or other indecent advances and proposal were attacked with acid just for the reason that they dared to say "NO". Thus women have no rights and respectful independent entity or position in our society. They are subjected to acid attacks for just trying to stand against inhuman approaches and behavior of men.

The study has revealed that the main reason of acid attack on women is inequality, inequality which is in the mind of our society. The evil of acid violence exists due to special treatment given to men. The interaction with the victims, lawyers, Doctors, officials of NGO'S and various other persons has revealed that the problem basically arises in **poor peoples**. The acid is very cheap to buy and easily available. It is weapon of poor or middle class peoples. Most of the acid attacks are committed by uneducated persons, laborers or poor workers. In Uttar Pradesh, mostly the cases are in backward areas where people are uneducated. Due to illiteracy the women are subjected to acid attack as they are treated as an object. The major problem observed by the researcher is that of unreported cases. The study revealed that the number of cases goes unreported in India. The poor girls never files FIR or take back the case due to family pressure, fear of threat to kill, ignorance, illiteracy and numerous other reasons. Ruquyya, victim of Acid Attack never filed FIR against the person who attacked him. The only reason not to file a case was family pressure and backwardness. The perpetrator was her sister's brother in law. So just to save her sister married life, she never filed a case against him. Another example is that of Madhu Madhu was a beautiful girl who was attacked by a stalker for rejecting his proposal. She also never filed any FIR. Again the reason was family pressure and backwardness. The

family advised Madhu to ignore the act because she was a girl and girls are blamed even for men's fault. So they decided to hide the incident. When people asked her about the burns and scars on the face and body, the family always gave a false answer that she was burnt due to exposure of stove accidentally in the kitchen.

Similarly, Garima's case also went unreported because backwardness, poverty and ignorance. The other major reasons of acid attacks are cheap and easy availability of acids, land or money disputes, suspicion of infidelity, domestic violence, dowry demands, relationship conflicts. To achieve the objectives of the study the following research hypotheses were formulated by the researcher

- Violence against women has increased in present time in forms and magnitude. The cases of acid attacks are rising in India.
- Social, political and economic factors are responsible for the increased incidence of acid attacks.
- The concept of compensatory jurisprudence regarding violence against women in general and for acid attack victims in particular is evolving in India, slowly but steadily.
- Improper implementation of the existing laws, judicial guidelines and the recommendations by the committees are hindrances for ameliorating the condition of women victims of acid attack in India.

The foregoing discussion leads to conclude that over a period of time the crime against women has increased. Approximately 85% of victims of acid attacks are women, and in the opposite the 98% perpetrators of crime are men. In most of the cases the crime is committed by a man against women. It is also observed the attacks are mainly committed on young females between the ages of 13 to 35. It is committed by young males between - the ages of 18 to 45. Though there are numerous provisions which can be used in the cases of acid attacks but these provisions seems to be not comprehensive in nature. Though the provisions under Indian Penal Code provide punishment and even death penalty in some case, still it fails to deter the criminals. Despite of these strict provisions the numbers of acid attacks in India continue to increase. The crime data `provided by the NCRB clearly shows the failure of laws. In 2013 the number of case of acid

attacks were 66 which raised to 203 in 2014 and 222 in 2015 which is more than 300%, even though Supreme Court has ordered the restriction of sale in India. It has laid down very strict guidelines to regulate the sale of acid. But even after that the acid is sold freely. The increasing numbers of cases of acid attacks are clear example of failure of restrictions.

Reported cases of acid attacks and attempts to acid attack have risen steadily over the past few years, requiring the dedicated involvement of state institutions like the Police and Court in insuring survivors and victims' can seek rightful remedy as guaranteed by the Constitution. The data regarding disposal of acid attack and attempt to acid attack cases in the country for the year 2016, the only year for which such data is available, draws a worrying picture in terms of the gaps visible between the stages of investigation and prosecution. While the pendency rate for investigation by the Police remains fairly lower than average in comparison to other crimes against women at 31.5% the charge sheeting rate in cases of acid attack and attempt to acid attack are encouragingly high at 83.2%. In India, the criminal justice systems not only fail to adequately prosecute and punish perpetrators of all crimes, but acid attack victims in each of these countries also face unique challenges in accessing justice. Thus, a serious need has been felt to examine these procedures in depth to understand where these lacunae continue to impair the system. The findings of the study clearly states that the acid attacks in India is rising and it can be concluded that Improper implementation of the existing laws, judicial guidelines and the recommendations by the committees are hindrances for ameliorating the condition of women victims of acid attack in India. Thus **1 and 4 hypotheses** are hence proved.

Legal framework governing the payment of compensation to victims of crime in India reveals that law in India was fragmentary and inadequate to compensate victims of crime. But on the recommendations³ of Law Commission

³ 42nd Report, Law Commission of India, Forty first Report (the Code of Criminal Procedure, 1898) 356, admitted that our Courts are not particularly liberal in utilizing these provisions; they do not exercise their statutory powers, under this section as freely and liberally as could be desired. Supreme Court also carried the same impression and appealed to all Courts in India to exercise their powers liberally to meet the end of Justice in a better way. It may be noted that the power of Courts to award compensation is not ancillary to other sentences but is in addition thereto. This power was intended to do something to re-assure the victim that he is not forgotten the in criminal justice system. It is, to some extent, a constructive approach to crimes. In *152nd Report* (152nd report of Law Commission of India (Govt. of India) on Custodial Crime (1994)) the Commission

of India, the Code has been amended by the Criminal Amendment Act, 2008.⁴ It further strengthens the scope of law relating to compensation. Through this amendment s.357A⁵ has been introduced in the Code which is the need of the hour. In spite of that s.357A has also certain draw backs; it is not exhaustive in nature because the co-ordination between the centre and state is a pre- requisite for providing funds for the purpose of compensation scheme. Though there is lack of coordination due to the opposition of **political parties** at the centre and state level or for any other person and because of this the benevolent object of these provisions may be defeated. Ultimately the sufferer again is the victim of crime. Yet Government has adopted the concept of compensation to the victims but that is not sufficient for women victims. Thus **3rd hypotheses** is proved that the concept of compensatory jurisprudence regarding violence against women in general and for acid attack victims in particular is evolving in India, slowly but steadily.

The conscientious intervention of the Judiciary has enabled statutory gaps to be filled in a long journey propelled by the Civil Society. However, very little has been done there after to ensure that this robust statutory mechanism is actually implemented to produce the desired equality of outcomes. The findings of the study in **Sheroes Cafés (Uttar Pradesh)** speak volumes regarding the same. Acid attacks continue to be rampantly used as weapon to inflict punishment and exact Revenge from women for the choices they make or the rights they assert regarding their lives, especially in the private sphere. Acid violence evokes both sympathy and outrage among people in its aftermath and creates the semblance of will on behalf of the state to execute the myriad Laws it has put in place with respect to prevention, protection and redressal. However, there is hardly any **political will over this serious issue**. If ever complimented by infrastructural and resource support to be converted into beneficial opportunities for the survivors.

has recommended the introduction of s. 357-A of Cr.P.C. prescribing that compensation be awarded at the time of sentencing to the victims of the crime Rs.25,000/- in the case of bodily injury not resulting in death, Rs. 1 Lac in the case of death. In *154th Report* (154th report of Law Commission of India (Govt. of India) on Cr.P.C (1996)) it went one more stage ahead and recommended for s. 357-A of Cr.P.C. to provide for a comprehensive scheme of payment of compensation for all victims fairly and adequately by the courts.

⁴Received the assent of the President on 7th January, 2009, Act Published in the *Gazette of India* 9-1-2009, Part II Schedule I *Extraordinary* p. I (No. 6)

⁵Sec, 357A, Criminal Law Amendment Act 2008 (Act No.5 2009)

The survivors themselves spoke of the kind of physiological injuries, psychological trauma, social isolation and financial losses they have to go through post violence and while the state has policies and scheme in place of medical treatment and compensatory support for them these system and processes have failed to deliver redressal. Thus on the basis of survivors narratives 2nd **hypotheses** is also proved.

To that end, following recommendations have been given to ensure a multi- agency coordinated, rights based response to the violation: -

1. **Integrate legal awareness in education programs** - The sheer disregard of women's human dignity and its manifestation in the form of violence, despite Constitutional protections is reflective of how the objectives of rule of law and access to justice are yet to truly materialise at the grassroots. For this it is imperative that the competent State actors and human rights institutions proactively carry out rights-based awareness programs to ensure people, from a young age, have access to comprehensible knowledge on gender equality, constitutional guarantees and information about legal remedies and processes for redressal, as preventative measure.
2. Media involvement to create awareness about equal status and rights of women and publicity against gender violence and crimes against women.
3. Identification of the underlying factors leading to violence against women.
4. Encouraging women to come forward to report atrocities and crime committed against them.
5. Mobilization of the masses to support victims and encouraging the masses to condemn the accused not the victim.
6. The principles of compensation to the victims of crime need to be reviewed and expanded to cover all cases of crime. The judicial discretion should not become a hindrance to award compensation to the victims and it is suggested that the provision should be mandatorily used with reasonableness and fairness by the courts relying on apex court directions. Also the State should try to recover it from the accused or any alternative measures need to be implemented so that the taxpayers money are not used for the same.

7. Moral and material support to women and establishment of shelter houses, where women along with children can be provided security.
8. **Build Capacity of Asha Jyoti Kendras to provide psychological support** - The State must capitalize on the existing system such as the One Stop Crisis Center to provide rights-based, survivor-centric counseling and psychosocial support that has the mandated scope and bandwidth to provide such long term services. Counselors and social workers appointed under the Aapki Sakhi — Asha Jyoti Kendra scheme must be trained in specific psychosocial therapeutic methods to provide psychological counseling to the acid attack survivor during and post the recovery process.
9. **Conduct sensitization programs and training with Police and Compulsory Linkages with Asha Jyoti Kendra (AJKs), Rani Lakshmi Bai Mahila evam Bal Samman kosh (RLMBSK) and District Legal Services Authority (DLSA)**- Police response in cases of acid attacks needs to be sensitive, quick and legally robust. For this purpose, conducting regular sensitization training exercises with the police on their accountability to the victim of gender based violence as well as skillful evidence collection in such cases must be emphasized. In cases where acid violence has happened in the family, relevant sections addressing restriction of mobility, confinement, attempt to murder, cruelty etc. must be noted. The police should also be acquainted with the provisions in the law that require their coordination in ensuring multi-institutional response for medical treatment, medico-legal reporting and access to compensation and psychosocial support and bolster their roles within the same. The police should be trained to make compulsory reference to Asha Jyoti Kendra, RLMBSK portal and DLSA for socio-legal support.
10. **Fast Track cases of Acid Attack** - Expedient setting up of already approved fast track courts in Uttar Pradesh to try cases of crimes against women must be prioritized. Setting up of special courts at the district level to expedite acid attack cases must take up. Prospect of statements and evidence of the survivor being done in convenient place other than the court room must be seriously discussed and implemented in order to fasten the trial process. As such, time limitation should be set for the police and

the court for filing of charge sheets and completion of the trial process. All attempts must be made to demand accountability from lawyers and public prosecutors for failing to appear owing to strikes or boycotts or for taking frivolous adjournments that must be discouraged in the first place.

11. **Increase appointments and Improve quality of Infrastructure** — For the purpose of speedy disposal of cases, vacant posts of judges must be filled as soon as possible. The court's infrastructure should be suitable to the comfort and care of acid attack survivors. It must be avoided at all costs for survivors to be recalled multiple times. Lawyers should also themselves try to curtail the time for cross examination and the judge should use discretion to make sure the defendant's lawyer is not causing unnecessary extension of the cross. In addition, the courtroom should not be allowed to be a crowded during the chief or cross processes. Well ventilated and relatively private waiting rooms must be arranged for such survivors. Since survivors are most prone to infections, sanitation of the bathrooms must be maintained. Arrangements must be made for the state exchequer to provide for travel allowance for at least the survivor and the process for obtaining the same must be simplified.

12. **Equip Healthcare centers and Hospitals to Respond to Acid Violence** — Timely response is the thin line between life and death in cases of acid attacks. In such situations, lack of burn care infrastructure in hospitals results in deterioration of critical injuries. Equipping primary healthcare centers and community healthcare centers with elementary burn units, burn response medical supplies and specialized emergency responders that are trained to treat acid burns can be essential to minimizing harm. Burn units in major government hospitals must be properly regulated with separate beds reserved for acid attack survivors that are in properly sterilized environments, insulated from infection exposure. Making sure that a referred transfer between hospitals is carried on using resources of the healthcare system itself should be strictly enforced. Availability of Advanced Life Support Ambulances or equivalent at rural hospitals/healthcare centers in all blocks can determine effective and quick services as well as safe and secure referral transfers.

- 13. Monitor and make transparent the implementation of Cashless Medical Treatment provisions under RLBMSK** — The process for cashless medical treatment under the RLBMSK follows an internal referral and relay mechanism as laid down by the Guidelines of the Kosh and in successive government orders, beginning right from admission into casualty/emergency. The Kosh guidelines lay down that all costs of treatment shall be borne by the state exchequer through a reimbursement policy for the hospital or diagnostic center. Further, any additional costs for medical supplies and pathological testing must be billed by the hospital itself that must be sent to the District Steering Committee who shall then relay it to the Financial Management Unit, following which regular reimbursement must happen with the allocation of the Rani Laxmi Bai Mahila evam Bal Samman Kosh. Chief Medical Supervisors and hospital managers at all levels must be regularly trained in understanding the procedures for making cashless treatment available under the scheme to survivors of acid attack. At the same time, reporting mechanism must be created for monitoring of the cashless treatment procedure and transparent public portals for display of the status of cashless medical service must be created as with the compensation process.
- 14. Implement the Provisions of the Compensation Scheme for women, Victims/Survivors of Sexual Assault/other Crimes, 2018** — The latest scheme notified by NALSA for granting of compensation to women victims of crimes must be implemented in letter and spirit. The separate fund for women victims/survivors under the VCS must be set up expediently. In addition, the capacity of DLSA officials must be built to acquaint them with the Provisions of the new scheme through trainings. Regular refresher trainings on the scheme and its provisions must be conducted. DLSAs must take suo moto cognizance of cases of acid attack related violence and proactively intervene in not just granting compensation but also in facilitating emergency medical assistance. Besides, compulsory referral to both SLISA/DLSA and the RLBMSK must be made by the concerned SHOs/SPs in such cases for grant of compensation. The format for application for grant of compensation must as laid down in the Compensation Scheme for women Victims/Survivors

of Sexual Assault/other Crimes, 2018 must be shared with all DLSAs and the proforma must be shared with all survivors/victim's families. Portal for online application must be set up as soon as possible with transparent and easy status enquiry gateways.

15. Implement NALSA (Legal Services to Victims of Acid Attacks)

Scheme, 2016 Plan of Action — NALSA's legal services scheme for victims of acid attacks lays down a comprehensive 7-point plan of action for provision of various services to victims of acid attacks. Proper implementation of the plan has the potential to fix the systemic issues that cause mistakes and delay in procedure for release of compensation and poor quality of legal assistance and sociolegal support. Some of the major features of the plan of action are with respect to the following:

- a. Legal representation for victims and survivors during the recording of their statements and evidence stage by empanelled lawyer earmarked for the purpose.
- b. Ensuring fast and hassle free access to interim compensation.
- c. Compulsory placement of legal service clinics and paralegal volunteers in major hospitals who shall facilitate necessary certification from the hospital, counseling and other rehabilitative services.
- d. Paralegal Volunteers to assist in registering complaints against police, medical officers and other government officials for refusing duty.
- e. Coordination with various departments for active disbursement of monetary compensation and facilitating inclusion of the names of the victims in the disability list to also be taken up by SLSAs.
- f. Creation of databases regarding existing central or state schemes, policies, regulations, policy directives concerning victims of acid attacks, publication of IEC materials regarding the same and their dissemination.
- g. Creation and annual circulation of list of hospitals with specialized facilities for treatment of burn victims among all levels of legal services and through the website of the SLA.
- h. Creating awareness regarding various schemes and handholding beneficiaries through the process through multi-agency coordination.

- i. Awareness generation through programs using various platforms to sensitize people regarding needs of acid attack and community support, victim compensation schemes and various entitlements under other laws and schemes, availability of pro Bono legal services, prohibition of over the counter sale of acids.
- j. Regular training and orientation programmes for panel lawyers and PLVs on sensitive handling of cases of acid attacks, and training and sensitization of judicial officers to ensure quick and adequate award of compensation, including interim compensation and fair and dignified treatment of victims of acid attack during trials.
- k. Sensitization programs for stakeholders such as government functionaries, police personnel, medical officers and NGOs.

The UPLSA must take it upon themselves to expediently bring forth the plan of action into motion. Budgetary allocation for these programs must be adequate and regular disbursement of budget for these planned activities must be ensured.

- 16. **Ensure compulsory implementation of the draft Witness Protection Scheme, 2018** — The police and legal services authority must be sensitized and trained on the provision of the draft Witness Protection Scheme approved by the Supreme Court in December 2018. The scheme provides for state protection to witnesses through the legal process in accordance to the perceived level of threat. At the same time, the Central government must finalize a plan for witness protection as soon as possible.
- 17. **Integrate acid attack survivors in education programs and Implement the provision of 1% reservation for acid attack victims in government jobs** — As many acid attack survivors lose their educational opportunities because of the violent incident and are often too stigmatized to continue their education in the mainstream after they're medically fit to do so, it is important to ensure that the state provides them with opportunities to continue their education and find dignified gainful employment. To that end, the District Probation Office must create awareness among acid attack survivors regarding schemes such as Kasturba Gandhi Balika Vidyalaya, Continuing and Adult Education Programs such as Sakshar

Bharat, Vocational and skill training programs under schemes like Pradhan Mantri Kaushal Vikas Yojana and Open University and distant education programs. At the same time, emphasis must be laid on building the capacity of public and private schools and higher education institutes for implementation of Integrated Education Programs for persons with disabilities. The Rights of Persons with Disabilities Act, 2016 lays down, every appropriate Government shall reserve in every Government establishment a minimum of 4% for persons with disabilities. And 1% will be reserved for persons with benchmark disabilities, of which acid attack has been recognized as a part. The government must earmark such opportunities for survivors of acid violence and make sure that proper awareness is created around this provision. Monitoring must be done to ensure that the government establishments are not denying such positions to survivors of acid attack and are meeting the said requirements under the act.

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Section A: Personal information

1. Name: (optional)			
2. Place of Acid Attack			
3. Age at the time of acid attack:	18-22	☐	4. In which category do you belong? (a) SC (b) UR
	22-26	☐	
	26-30	☐	5. Gender.....
	30-35	☐	
	35-40	☐	
6. Background	Rural	☐	7. State and District.....
	Urban	☐	
	Semi Urban	☐	
	Hill Area	☐	
			8. Religion.....
		9. Marital Status	Married..... Unmarried.....
10. Date of acid attack			

12. Educational Qualification

	Place of Education		Type of Educational Institution		Medium of Learning
	Rural	Urban	Governor	Private	
10 th					English/Hindi/Regional
12 th					
B.A.					
M.A.					
M.Phil					
Ph.D					
PDF					

Section B: Socio-Economic Profile

12.Source of Livelihood					Family		Personal	
13. Occupational Background								
Head	Govt. Employ	Private Employ	Business	Agricultural Lobour	Daily Ways	Home maker	Self Employed	Any Other
Mother								
Father								
Guardian								
Self								

14. Annual and Monthly Income Mother /Father/Self

1. Below INR 15000
2. INR 15000 to INR 30000
3. INR 31000 to INR 45000
4. INR 46000 to INR 60000
5. INR 61000 to INR 75000
6. INR 76000 to INR 1000000
7. More than INR 100000

To

The Director,

Chhanv Foundation, Lucknow

I Preeti Bhasker persuing Ph.D. on the topic entitled “Physical Violence Against Women and Compensatory Jurisprudence with Special Reference to Acid Attack Survivors” from the Department of Human Rights, School for Legal Studies B.B.A.U. Lucknow. Since my Doctrinal work is empirical for which data collection is required so grant me permission to collect information from the acid attack survivors. I assure you that, responses to the questionnaire and other personal information’s sought will be treated in most confidential way. It will not be disclosed and misused in any manner.

Thank you,

Place- Lucknow

Investigator

Date-

Preeti Bhasker

Email Id. pritibha786@gmail.com

Contact No. 7398572349

Questionnaire

(To be filled by Victims)

1. Who was the perpetrator/ offender?

- i. Male
- ii. Female
- iii. Transgender

2. Do you know the perpetrator?

- i. Relative
- ii. Neighbour
- iii. Friend
- iv. Colleague
- v. Stranger

3. What was the reason of acid attack?

- i. Rejection in love and Refusal of indecent proposals
- ii. Land or money disputes; business conflicts
- iii. Suspicion of infidelity
- iv. Family disputes; Dowry demands domestic violence; relationship conflicts
- v. If any other, please specify

4. What are the effects of acid attacks on victims?

- i. Social Psychological
- ii. Financial
- iii. Physical
- iv. If any Other, please specify

5. What are the social effects of acid attacks?

- i. Discrimination
- ii. Forced to stay alone or stay in house only
- iii. Non-cooperation from society
- iv. Dependant on others
- v. Hatred
- vi. Ignoring behaviour from society
- vii. Other

6. What are the economic effects of acid attacks?

- i. Lack of money for the treatment
- ii. Lack of money for the court procedure
- iii. Burden on family

7. Whether you were employed before being attacked?

- i. Yes
- ii. No

If yes, are you able to continue it after being attacked?

- i. Yes
- ii. No

8. Do you face any psychological effects?

- i. Depression
- ii. Insomnia
- iii. Fear of another attack
- iv. Ashamed
- v. Lack of confidence
- vi. If any other, please specify

9. Injuries inflicted due to acid attack?

10. Do you feel uncomfortable going in public after the acid attack?

- i. Yes
- ii. No

11. Whether the behaviour/attitude of friends and relatives is changed towards you?

- i. Yes
- ii. No

12. How much expenses have you incurred for treatment?

13. Have you received any compensation or financial help for the treatment from government?

- i. Yes
- ii. No

If yes, kindly mention the amount

14. Do you think that the policy of government to provide compensation to the acid victim is sufficient?

- i. Yes
- ii. No

15. Did you receive immediate first aid treatment after attack?

- i. Yes
- ii. No

16. Have you received any help from any Non-Governmental Organisation?

- i. Yes
- ii. No

If yes kindly name the NGO and the help you have received.

17. Have you received free legal aid?

- i. Yes
- ii. No

18. What is the status of your case?

19. Whether your offender is punished?

- i. Yes
- ii. No

20. Whether just compensation is sufficient for the acid attack victim?

- i. Yes
- ii. No

21. What kind of punishment should be given in cases of acid attacks?

- i. Fine
- ii. Simple imprisonment with fine

- iii. Rigorous imprisonment with fine
- iv. Death penalty
- v. Any other

22. Do you think sale of acid is regulated?

- i. Yes
- ii. No

23. Do you think present laws and policies on acid attack is sufficient to deter this crime in India?

- i. Yes
- ii. No

24. What new reforms should introduce in our country for this cause?

- i. Separate victimized home for victims
- ii. Free medical treatment through medical card issued by Govt.
- iii. Jobs According to their ability or Special pension scheme
- iv. Any other

25. Do you think crime of acid attacks are on rise in India?

- i. Yes
- ii. No

26. What new laws and policies should be introduced to combat the acid attacks?

Any other comments are welcome below:

Questionnaire
(To be filled by Doctors)

Name:

Age:

Profession:

Place:

1. Who do you think are the perpetrators/ offenders of acid attacks?

- i. Male
- ii. Female
- iii. Transgender

2. What do you consider as the main reason for men doing acid attacks on women?

- i. Rejection in love and Refusal of indecent proposals
- ii. Land or money disputes; business conflicts
- iii. Suspicion of infidelity
- iv. Family disputes; Dowry demands domestic violence; relationship conflicts
- v. If any other, please specify

3. Do you think this is a gender specific crime (crime against women)?

- i. Yes
- ii. No

4. Do you think acid attacks have life time effect on human body?

- i. Yes
- ii. No

5. What kind of Injuries are inflicted due to acid attack?

- i. Skull: destroyed or deformed.
- ii. Loss of hair
- iii. Forehead: skin is shrunked, scarred.
- iv. Ears: Shrivelled up and deformed.
- v. Deafness

- vi. Cartilage in the ear is usually partly or totally destroyed, exposing the victim to future infection and hearing loss.
- vii. Blindness
- viii. Corneal destruction (Distorted or blurred vision)
- ix. Conjunctiva oedema
- x. Lachrymation (secretion of tears)
- xi. Photophobia (intolerance to light)
- xii. burning in the throat
- xiii. bronchopneumonia (kind of pneumonia)
- xiv. Nose: Shrunken and deformed.
- xv. Nostrils closed completely because the cartilage is destroyed.
- xvi. Cheeks: Scarred and deformed.
- xvii. Mouth: Shrunken and narrowed, and may lose its shape.
- xviii. Lips: partly or totally destroyed.
- xix. Chin: Scarred and deformed. The scars run downward, welding the chin to the neck or chest.
- xx. Neck damaged or scarred
- xxi. Chest damaged or scarred
- xxii. Shoulder damaged or scarred
- xxiii. Damage of limbs
- xxiv. hypocalcemia (lower calcium level)
- xxv. hyperkalemia (higher calcium level)
- xxvi. If any Other, please specify

6. Does immediate first aid is necessary in case of acid attack?

- i. Yes
- ii. No

7. Pouring water or milk immediately could reduce the effects of acid?

- i. Yes
- ii. No

8. whether the victims should be treated free of cost?

- i. Yes
- ii. No

9. Do you think present laws and policies on acid attack are sufficient to deter this crime in India?

- i. Yes
- ii. No

10. What kind of punishment should be in cases of acid attacks?

- i. Simple imprisonment with fine
- ii. Rigorous imprisonment with fine
- iii. Death penalty
- iv. Any other

11. What new reforms should introduce in our country for this cause?

- i. Separate victimized home for victims
- ii. Free medical treatment through medical card issued by Govt.
- iii. Jobs According to their ability or Special pension scheme
- iv. Any other

12. Do you think crime of acid attacks is on rise in India?

- i. Yes
- ii. No

13. What new laws and policies should in introduced?

Any other comments.....

Questionnaire

(To be filled by Legal Fraternity)

Name:

Age:

Profession:

Place:

1. What do you think who are the victims of acid attacks?

- i. Male
- ii. Female
- iii. Transgender
- iv. All the above

2. Who do you think are the perpetrator/ offender of acid attacks?

- i. Male
- ii. Female
- iii. Transgender
- iv. All the above

3. Do you think this is a gender specific crime (crime against women)?

- i. Yes
- ii. No

4. What do you consider as the main reason for men doing acid attacks on women?

- i. Rejection in love and Refusal of indecent proposals
- ii. Land or money disputes; business conflicts
- iii. Suspicion of infidelity
- iv. Family disputes; Dowry demands domestic violence; relationship conflicts
- v. If any other, please specify

5. Whether technological advancements (media, inter-net, T.V. shows etc.,) play a major role in such crime?

- i. Yes
- ii. No

6. Do you think any attacks have vast effect on the society?

- i. Yes
- ii. No

7. Do you think that free legal aid should be provided to victims of acid attacks?

- i. Yes
- ii. No

8. Do you think present laws and policies on acid attack are sufficient to deter this crime in India?

- i. Yes
- ii. No

9. Would just fine be enough?

- i. Yes
- ii. No

10. What kind of punishment should be in cases of acid attacks?

- i. Simple imprisonment with fine
- ii. Rigorous imprisonment with fine
- iii. Death penalty
- iv. Any other

11. What new reforms should introduce in our country for this cause?

- i. Separate victimized home for victims
- ii. free medical treatment through medical card issued by Govt
- iii. Jobs According to their ability or Special pension scheme
- iv. Any other

12. Whether the sale of acid should be totally banned in India?

- i. Yes
- ii. No

13. Should the acid attacks crime be tried by some special courts?

- i. Yes
- ii. No

14. Should there be speedy trial for such crimes?

- i. Yes
- ii. No

15. Do you think crime of acid attacks is on rise in India?

- i. Yes
- ii. No

16. What new laws and policies should in introduced?

Any other comments or Suggestions are welcome below:

Questionnaire

(To be filled by General Public)

Name:

Age:

Profession:

Place:

1. Do you know about acid attacks?

- i. Yes
- ii. No

2. From which source you came to know about acid attacks?

- i. Newspaper
- ii. Television
- iii. Internet source
- iv. Relative
- v. Friends
- vi. Any other

3. Do you think crimes of acid attacks are on rise in India?

- i. Yes
- ii. No
- iii. Don't know

4. What do you consider as the main reason for men doing acid attacks on women?

- i. Rejection in love and Refusal of indecent proposals
- ii. Land or money disputes; business conflicts
- iii. Suspicion of infidelity
- iv. Family disputes; Dowry demands domestic violence; relationship conflicts

If any other, please specify

5. Who do you think are the perpetrator/ offender of acid attacks?

- i. Male
- ii. Female
- iii. Transgender

6. Do you think this is a gender specific crime (crime against women)?

- i. Yes
- ii. No

7. Do you think any attacks have wide effect on the society?

- i. Yes
- ii. No

8. Are you aware of the laws regulating the sale of acid?

- i. Yes
- ii. No

9. Do you think present laws and policies on acid attack is sufficient to deter this crime in India?

- i. Yes
- ii. No

10. Would just fine be enough?

- i. Yes
- ii. No

11. What kind of punishment should be in cases of acid attacks?

- i. Simple imprisonment with fine
- ii. Rigorous imprisonment with fine
- iii. Death penalty
- iv. Any other

12. What new reforms should introduce in our country for this cause?

- i. Separate victimized home for victims
- ii. free medical treatment through medical card issued by Govt.
- iii. Jobs According to their ability or Special pension scheme
- iv. Any other

13. What new laws and policies should in introduced?

Any other comments are welcome below:



NALSA's

**Compensation Scheme for Women Victims/Survivors of
Sexual Assault/other Crimes - 2018**



National Legal Services Authority

12/11, Jam Nagar House, Shahjahan Road, New Delhi

Website: www.nalsa.gov.in e-mail: nalsa-dla@nic.in

Background

Hon'ble Supreme Court of India in W.P. (C) No. 565/2012 titled Nipun Saxena Vs. Union of India opined that *“it would be appropriate if NALSA sets up a Committee of about 4 or 5 persons who can prepare Model Rules for Victim Compensation for sexual offences and acid attacks taking into account the submissions made by the learned Amicus. The learned Amicus as well as the learned Solicitor General have offered to assist the Committee as and when required. The Chairperson or the nominee of the Chairperson of the National Commission for Women should be associated with the Committee.”*

In view of the above, NALSA set up a committee consisting of the following members for preparation of Model Scheme:

Ms. Pinky Anand
Additional Solicitor General

Shri Rakesh Srivastava
Secretary, Ministry of Women and Child Development,
Government of India

Shri T.V.S. N. Prasad
Additional Secretary, Ministry of Home Affairs,
Government of India

Ms. Indira Jaising,
Senior Advocate, Supreme Court of India

Shri Alok Agarwal
Member Secretary, NALSA

Shri Surinder S. Rathi,
Director, NALSA

Ms. Anju Rathi Rana,
Joint Secretary,
Department of Legal Affairs,
Ministry of Law and Justice, Govt. of India

Shri K.L. Sharma,
Joint Secretary
National Commission for Women

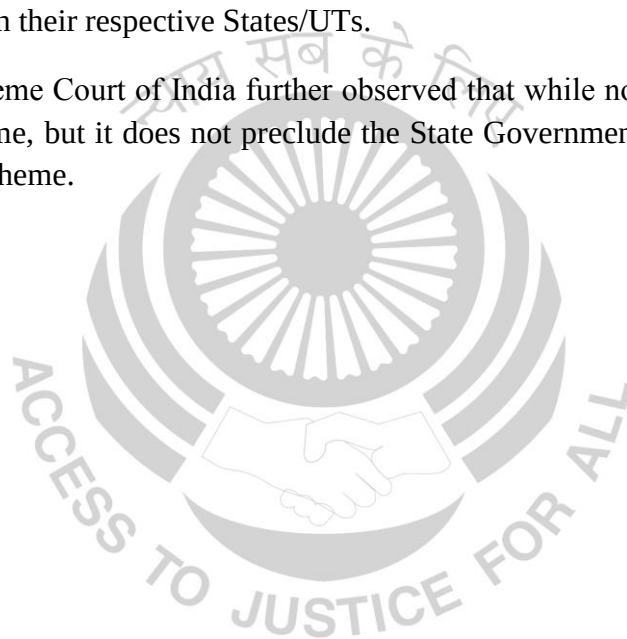
Ms. Bharti Ali
Co-Director,
HAQ: Centre for Child Rights

The Committee held rounds of meetings and it was decided to prepare a separate “Chapter” or a “Sub-Scheme” within the existing Victim Compensation Scheme for victims of sexual assault.

The Committee drafted Part – II of the Victims Compensation Scheme and invited suggestions/comments from various stakeholders on the draft. Taking into consideration the suggestions/comments, the Committee has finalized the **Compensation Scheme for women Victims/Survivors of Sexual Assault/other Crimes** and submitted the same before the Hon’ble Supreme Court of India on 24.04.2018.

Submissions were made before the Hon’ble Bench and other stakeholders were also heard on 10.05.2018. Additional suggestions received during the hearing were also incorporated and final Scheme was filed before the Hon’ble Supreme Court of India on 11.05.2018. On this day, after hearing NALSA and Ld. Amicus Curiae, Hon’ble Bench was pleased to accept this Scheme and directed all the State Governments/UT Administrations to implement the same in their respective States/UTs.

Hon’ble Supreme Court of India further observed that while nothing should be taken away from this Scheme, but it does not preclude the State Governments/UT Administrations from adding to the Scheme.



(Surinder S. Rathi)
Director, NALSA

PART-II

The Chapter contained in this part shall be called “**Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes**”

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1. SHORT TITLE AND COMMENCEMENT

- (1) This Chapter may be called the **Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018**.
- (2) It shall come into force on the date as and when ordered by Hon'ble Supreme Court of India.
- (3) It shall apply to the victims and their dependent(s) who have suffered loss, injury, as the case may be, as a result of the offence committed and who require rehabilitation.

2. DEFINITIONS

- 1) In this Chapter, unless the context otherwise requires:—
 - (a) “**Code**” means the Code of Criminal Procedure, 1973 (2 of 1974);
 - (b) ‘**Dependent**’ includes husband, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the State Legal Services Authority or District Legal Services Authority on the basis of the report of the Sub- Divisional Magistrate of the concerned area/Station House Officer/Investigating Officer or on the basis of material placed on record by the dependents by way of affidavit or on its own enquiry.
 - (c) “**District Legal Services Authority**” means the District Legal Services Authority (DLSA) constituted under section 9 of the Legal Services Authorities Act, 1987 (Act 39 of 1987) for a District of the National Capital Territory of Delhi;
 - (d) ‘**Form**’ means form appended to the Scheme as applicable to this Chapter.
 - (e) ‘**Fund**’ means State fund i.e. victim compensation fund constituted under the State Victim Compensation Scheme.
 - (f) ‘**Central Fund**’ means funds received from CVCF Scheme, 2015.
 - (g) ‘**Women Victim Compensation Fund**’ – means a fund segregated for disbursement for women victim, out of State Victim Compensation Fund and Central Fund.

[Within the State Victim Compensation Fund, a separate Bank Account shall be maintained as a portion of that larger fund which shall contain the funds contributed under CVCF Scheme by MHA, GOI contributed from Nirbhaya Fund apart from funds received from the State Victim Compensation Fund which shall be utilised only for victims covered under this Chapter]

- (h) ‘**Government**’ means ‘State Government’ wherever the State Victim Compensation Scheme or the State Victim Compensation Fund is in context and ‘Central Government’ wherever Central Government Victim Compensation Fund Scheme is in context and includes UTs.

- (i) **'Injury'** means any harm caused to body or mind of a female.
- (j) **'Minor'** means a girl child who has not completed the age of 18 years.
- (k) **'Offence'** means offence committed against women punishable under IPC or any other law.
- (l) **'Penal Code'** means Indian Penal Code, 1860 (45 of 1860);
- (m) **'Schedule'** means schedule applicable to this Chapter/Part of the scheme.
- (n) **"State Legal Services Authority"** means the State Legal Services Authority (SLSA), as defined in Section 6 of the Legal Services Authorities Act, 1987 (39 of 1987)
- (o) **'Sexual Assault Victims'** means female who has suffered mental or physical injury or both as a result of sexual offence including Sections 376 (A) to (E), Section 354 (A) to (D), Section 509 IPC.
- (p) **'Woman Victim/ survivor of other crime'** means a woman who has suffered physical or mental injury as a result of any offence mentioned in the attached Schedule including Sections 304 B, Section 326A, Section 498A IPC (in case of physical injury of the nature specified in the schedule) including the attempts and abetment.
- (2) Words and expressions used in this Chapter and not defined here, shall have the same meaning as assigned to them in the Code of Criminal Procedure, 1973 or/and the Indian Penal Code, 1860.

3. WOMEN VICTIMS COMPENSATION FUND—

- (1) There shall be a Fund, namely, the Women Victims Compensation Fund from which the amount of compensation, as decided by the State Legal Services Authority or District Legal Services Authority, shall be paid to the women victim or her dependent(s) who have suffered loss or injury as a result of an offence and who require rehabilitation.
- (2) The 'Women Victims Compensation Fund' shall comprise the following:-
- Contribution received from CVCF Scheme, 2015.
 - Budgetary allocation in the shape of Grants-in-aid to SLSA for which necessary provision shall be made in the Annual Budget by the Government;
 - Any cost amount ordered by Civil/Criminal Tribunal to be deposited in this Fund.
 - Amount of compensation recovered from the wrong doer/accused under clause 14 of the Scheme;

(e) Donations/contributions from International/ National/ Philanthropist/ Charitable Institutions/ Organizations and individuals permitted by State or Central Government.

(f) Contributions from companies under CSR (Corporate Social Responsibility)

(3) The said Fund shall be operated by the State Legal Services Authority (SLSA).

4. ELIGIBILITY FOR COMPENSATION –

A woman victim or her dependent (s) as the case may be, shall be eligible for grant of compensation from multiple schemes applicable to her. However, the compensation received by her in the other schemes with regard to Section 357-B Cr.P.C., shall be taken into account while deciding the quantum in the such subsequent application

5. PROCEDURE FOR MAKING APPLICATION BEFORE THE SLSA OR DLSA—

Mandatory Reporting of FIRs: - SHO/SP/DCP shall mandatorily share soft/hard copy of FIR immediately after its registration with State Legal Services Authority/District Legal Services Authority qua commission of offences covered in this Scheme which include Sections 326A, 354A to 354D, 376A to 376E, 304B, 498A (in case of physical injury covered in this Schedule), so that the SLSA/DLSA can, in deserving cases, may suo-moto initiate preliminary verification of facts for the purpose of grant of interim compensation.

An application for the award of interim/ final compensation can be filed by the Victim and/or her Dependents or the SHO of the area before concerned SLSA or DLSA. It shall be submitted in Form 'I' along with a copy of the First Information Report (FIR) or criminal complaint of which cognizance is taken by the Court and if available Medical Report, Death Certificate, wherever applicable, copy of judgment/ recommendation of court if the trial is over.

6. PLACE OF FILING OF APPLICATION—

The application/recommendation for compensation can be moved either before the State Legal Services Authority or the concerned District Legal Services Authority or it can be filed online on a portal which shall be created by all State Legal Services Authorities. The Secretary of the respective DLSA shall decide the application/ recommendation moved before him/her as per the Scheme.

Explanation: In case of acid attack victim the deciding authority shall be Criminal Injury Compensation Board as directed by Hon'ble Supreme Court in Laxmi vs. Union of India W.P.CRML 129/2006 order dated 10.04.2015 which includes Ld. District & Sessions Judge, DM, SP, Civil Surgeon/CMO of the district.

7. RELIEFS THAT MAY BE AWARDED BY THE STATE OR DISTRICT LEGAL SERVICES AUTHORITY. –

The SLSA or DLSA may award compensation to the victim or her dependents to the extent as specified in the scheduled attached hereto.

NALSA's "Compensation Scheme for women Victims/Survivors of Sexual Assault/other Crimes -2018"

8. FACTORS TO BE CONSIDERED WHILE AWARDING COMPENSATION –

While deciding a matter, the State Legal Services Authority/District Legal Services Authority may take into consideration the following factors relating to the loss or injury suffered by the victim:

- (1) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim;
- (2) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counselling of the victim, funeral, travelling during investigation/ inquiry/ trial (other than diet money);
- (3) Loss of educational opportunity as a consequence of the offence, including absence from school/college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (4) Loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (5) The relationship of the victim to the offender, if any;
- (6) Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;
- (7) Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP)/ give birth to a child, including rehabilitation needs of such child;
- (8) Whether the victim contracted a sexually transmitted disease (STD) as a result of the offence;
- (9) Whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence;
- (10) Any disability suffered by the victim as a result of the offence;
- (11) Financial condition of the victim against whom the offence has been committed so as to determine her need for rehabilitation and re-integration needs of the victim.
- (12) In case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.
- (13) Or any other factor which the SLSA/DLSA may consider just and sufficient.

9. PROCEDURE FOR GRANT OF COMPENSATION—

(1) Wherever, a recommendation is made by the court for compensation under sub-sections (2) and/or (3) of Section 357A of the Code, or an application is made by any victim or her dependent(s), under sub-section (4) of Section 357A of the Code, to the State Legal Services Authority or District Legal Services Authority, for interim compensation it shall prima-facie satisfy itself qua compensation needs and identity of the victim. As regards the final compensation, it shall examine the case and verify the contents of the claim with respect to the loss/injury and rehabilitation needs as a result of the crime and may also call for any other relevant information necessary for deciding the claim.

Provided that in deserving cases and in all acid attack cases, at any time after commission of the offence, Secretary, SLSA or Secretary, DLSA may *suo moto* or after preliminary verification of the facts proceed to grant interim relief as may be required in the circumstances of each case.

(2) The inquiry as contemplated under sub-section (5) of Section 357A of the Code, shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim/petition or recommendation:

Provided that in cases of acid attack an amount of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of DLSA. The order granting interim compensation shall be passed by DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of the order. Thereafter, an amount of Rs. 2 lakhs shall be paid to the victim as expeditiously as possible and positively within two months of the first payment*

Provided further that the victim may also be paid such further amount as is admissible under this Scheme.

(3) After consideration of the matter, the SLSA or DLSA, as the case may be, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or her dependent(s) taking into account the factors enumerated in Clause 8 of the Scheme, as per schedule appended to this chapter. However, in deserving cases, for reasons to be recorded, the upper limit may be exceeded.

Moreover, in case the victim is minor, the limit of compensation shall be deemed to be 50% higher than the amount mentioned in the Schedule appended to this chapter.

** Victims of Acid attack are also entitled to additional compensation of Rs. 1 lac under Prime Minister's National Relief Fund vide memorandum no. 24013/94/Misc./2014-CSR-III/GoI/MHA dated 09.11.2016(copy attached)*

Victims of Acid Attack are also entitled to additional special financial assistance up to Rs. 5 lacs who need treatment expenses over and above the compensation paid by the respective State/UTs in terms of Central Victim Compensation Fund Guidelines-2016, no. 24013/94/Misc/2014-CSR.III, MHA/GoI

(4) The SLSA/DLSA may call for any record or take assistance from any Authority/Establishment/Individual/ Police/Court concerned or expert for smooth implementation of the Scheme.

(5) In case trial/appellate court gives findings that the criminal complaint and the allegation were false, then Legal Services Authority may initiate proceedings for recovery of compensation, if any, granted in part or full under this Scheme, before the Trial Court for its recovery as if it were a fine.

10. THE ORDER TO BE PLACED ON RECORD—

Copy of the order of interim or final compensation passed under this Scheme shall be placed on record of the trial Court so as to enable the trial Court to pass an appropriate order of compensation under Section 357 of the Code. A true copy of the order shall be provided to the IO in case the matter is pending investigation and also to the victim/dependent as the case may be.

11. METHOD OF DISBURSEMENT OF COMPENSATION—

(1) The amount of compensation so awarded shall be disbursed by the SLSA by depositing the same in a Bank in the joint or single name of the victim/dependent(s). In case the victim does not have any bank account, the DLSA concern would facilitate opening of a bank account in the name of the victim and in case the victim is a minor along with a guardian or in case, minor is in a child care institution, the bank account shall be opened with the Superintendent of the Institution as Guardian. However, in case the victim is a foreign national or a refugee, the compensation can be disbursed by way of cash cards.

Interim amount shall be disbursed in full. However, as far as the final compensation amount is concerned, 75% (seventy five percent) of the same shall be put in a fixed deposit for a minimum period of three years and the remaining 25% (twenty five percent) shall be available for utilization and initial expenses by the victim/dependent(s), as the case may be.

(2) In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit.

Provided that in exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the SLSA/ DLSA.

(3) The interest on the sum, if lying in FDR form, shall be credited directly by the bank in the savings account of the victim/dependent(s), on monthly basis which can be withdrawn by the beneficiary

12. INTERIM RELIEF TO THE VICTIM—

The State Legal Services Authority or District Legal Services Authority, as the case may be, may order for immediate first-aid facility or medical benefits to be made available free of cost or any other interim relief (including interim monetary compensation) as deemed appropriate, to alleviate the suffering of the victim on the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned or on the application of the victim/ dependents or suo moto.

Provided that as soon as the application for compensation is received by the SLSA/DLSA, a sum of Rs.5000/- or as the case warrants up to Rs. 10,000/- shall be immediately disbursed to the victim through preloaded cash card from a Nationalised Bank by the Secretary, DLSA or Member Secretary, SLSA.

Provided that the, interim relief so granted shall not be less than 25 per cent of the maximum compensation awardable as per schedule applicable to this Chapter, which shall be paid to the victim in totality.

Provided further that in cases of acid attack a sum of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of SLSA/DLSA. The order granting interim compensation shall be passed by the SLSA/DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of order. Thereafter an additional sum of Rs.2 lakhs shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

13. RECOVERY OF COMPENSATION AWARDED TO THE VICTIM OR HER DEPENDENT(S)—

Subject to the provisions of sub-section (3) of Section 357A of the Code, the State Legal Services Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or her dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him/her.

The amount, so recovered, shall be deposited in Woman Victim Compensation Fund.

14. DEPENDENCY CERTIFICATE—

The authority empowered to issue the dependency certificate shall issue the same within a period of fifteen days and, in no case, this period shall be extended:

Provided that the SLSA/DLSA, in case of non-issuance of Dependency Certificate, after expiry of 15 days, may proceed on the basis of an affidavit to be obtained from the claimant.

15. MINOR VICTIMS -

That in case the victim is an orphaned minor without any parent or legal guardian the immediate relief or the interim compensation shall be disbursed to the Bank Account of the child, opened under the guardianship of the Superintendent, Child Care Institutions where the child is lodged or in absence thereof, DDO/SDM, as the case may be.

16. LIMITATION-

Under the Scheme, no claim made by the victim or her dependent(s), under sub-section (4) of Section 357A of the Code, shall be entertained after a period of 3 years from the date of occurrence of the offence or conclusion of the trial.

However, in deserving cases, on an application made in this regard, for reasons to be recorded, the delay beyond three years can be condoned by the SLSAs/DLSAs.

17. APPEAL:

In case the victim or her dependents are not satisfied with the quantum of compensation awarded by the Secretary, DLSA, they can file appeal within 30 days from the date of receipt of order before the Chairperson, DLSA.

Provided that, delay in filing appeal may be condoned by the Appellate Authority, for reasons to be recorded, in deserving cases, on an application made in this regard.

18. REPEAL & SAVINGS-

(1) In case this Chapter is silent on any issue pertaining to Victim Compensation to Women, the provisions of Victim Compensation Scheme of the State would be applicable.

(2) Nothing in this Scheme shall prevent Victims or their dependents from instituting any Civil Suit or Claim against the perpetrator of offence or any other person indirectly responsible for the same.

Explanation: It is clarified that this Chapter does not apply to minor victims under POCSO Act, 2012 in so far as their compensation issues are to be dealt with only by the Ld. Special Courts under Section 33 (8) of POCSO Act, 2012 and Rules (7) of the POCSO Rules, 2012.

SCHEDULE APPLICABLE TO WOMEN VICTIM OF CRIMES

S. No.	Particulars of loss or injury	Minimum Limit of Compensation	Upper Limit of compensation
1	Loss of Life	Rs. 5 Lakh	Rs. 10 Lakh
2	Gang Rape	Rs. 5 Lakh	Rs. 10 Lakh
3	Rape	Rs. 4 Lakh	Rs. 7 Lakh
4	Unnatural Sexual Assault	Rs. 4 Lakh	Rs. 7 Lakh
5	Loss of any Limb or part of body resulting in 80% permanent disability or above	Rs. 2 Lakh	Rs. 5 Lakh
6	Loss of any Limb or part of body resulting in 40% and below 80% permanent disability	Rs. 2 Lakh	Rs. 4 Lakh
7	Loss of any limb or part of body resulting in above 20% and below 40% permanent disability	Rs. 1 Lakh	Rs. 3 Lakh
8	Loss of any limb or part of body resulting in below 20% permanent disability	Rs. 1 Lakh	Rs. 2 Lakh
9	Grievous physical injury or any mental injury requiring rehabilitation	Rs. 1 Lakh	Rs. 2 Lakh
10	Loss of Foetus i.e. Miscarriage as a result of Assault or loss of fertility.	Rs. 2 Lakh	Rs. 3 Lakh
11	In case of pregnancy on account of rape.	Rs.3 Lakh	Rs.4 Lakh
12	Victims of Burning:		
a.	In case of disfigurement of case	Rs. 7 Lakh	Rs. 8 Lakh
b.	In case of more than 50%	Rs. 5 Lakh	Rs. 8 Lakh
c.	In case of injury less than 50%	Rs. 3 Lakh	Rs. 7 Lakh
d.	In case of less than 20%	Rs. 2 Lakh	Rs. 3 Lakh
13	Victims of Acid Attack-		
a.	In case of disfigurement of face.	Rs. 7 Lakh	Rs. 8 Lakh

b.	In case of injury more than 50%.	Rs. 5 Lakh	Rs. 8 Lakh
c.	In case of injury less than 50%.	Rs. 3 Lakh	Rs. 5 Lakh
d.	In case of injury less than 20%	Rs. 3 Lakh	Rs. 4 Lakh

Note: If a woman victim of sexual assault/acid attack is covered under one or more category of the schedule, she shall be entitled to be considered for combined value of the compensation.



FORM –I**APPLICATION FOR THE AWARD OF COMPENSATION UNDER
COMPENSATION SCHEME FOR WOMEN VICTIMS/SURVIVORS OF SEXUAL
ASSAULT/OTHER CRIMES, 2018 FOR INTERIM/FINAL RELIEF FOR WOMEN**

1.	Name of the Applicant Victim(s) or her Dependent(s)	
2.	Age of the Victim(s) or her Dependent(s)	
3.	(a) Father's Name (b) Mother's Name (c) Spouse's Name	
4.	Address of the Victim(s) or her/their Dependent(s)	
5.	Date and time of the Incident	
6.	Whether FIR has been lodged?	
7.	Whether medical examination has been done? If yes, enclose Medical Report/ Death Certificate /P.M. Report.	
8.	Status of trial, if pending. If over, enclose copy of judgment and order on sentence.	
9.	Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If, yes give details.	
10.	Give details of financial expenditure/ loss incurred	
11.	Have you instituted any civil suit/ claim against the perpetrator of offence. If yes give details. Signature of the Victim/Dependent.	

प्रेषक,

कमल सक्सेना,
सचिव,
उ0प्र0शासन।

सेवा में,

समस्त जिलाधिकारी/
वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक,
उत्तर प्रदेश।

गृह (पुलिस)अनुभाग-15

दिनांक 14 जून, 2016

विषय:-उत्तर प्रदेश पीड़ित क्षतिपूर्ति योजना-2014 में हुये संशोधन दिनांक 07.06.2016 के संबंध में।

महोदय,

आप अवगत हैं कि रिट पिटिशन (क्रिमिनल) संख्या-129/2006 लक्ष्मी बनाम यूनियन आफ इण्डिया व अन्य में मा0उच्चतम न्यायालय द्वारा पारित आदेश दिनांक 11.02.2011 के अनुपालन में साधारण खण्ड अधिनियम 1897 (अधिनियम संख्या-10 सन् 1897) की धारा-21 के साथ पठित दण्ड प्रक्रिया संहिता 1973 (अधिनियम संख्या-2 सन् 1974) की धारा-357क के अधीन शक्ति का प्रयोग करके उत्तर प्रदेश सरकार द्वारा उ0प्र0पीड़ित क्षतिपूर्ति योजना-2014 दिनांक 09.04.2014 में संशोधन करते हुए दिनांक 07.06.2016 द्वारा निम्नलिखित श्रेणियों में अपराध से पीड़ित व्यक्ति को निर्धारित प्रक्रिया के अंतर्गत तत्काल आर्थिक सहायता दिये जाने की व्यवस्था है:-

क्र0सं0	हानि या क्षति का विवरण	क्षतिपूर्ति की अधिकतम सीमा
<u>1</u>	बलात्कार	रु0-3,00,000/-
<u>2</u>	मानसिक संताप के कारण हुई हानि या क्षति (भा0द0वि0 की धारा-325,326,333,394,429,435 एवं 436)	रु0-1,00,000/-
<u>3</u>	संक्षारक पदार्थ अर्थात तेजाब आदि हमले से पीड़ित	रु0-5,00,000/-
<u>4</u>	मृत्यु (गैर कमाने वाले सदस्य)	रु0-1,50,000/-
<u>5</u>	मृत्यु (कमाने वाले सदस्य)	रु0-2,00,000/-
<u>6</u>	मानव तस्करी से पीड़ित	रु0-2,00,000/-

<u>7</u>	लैंगिक अपराधों से बालकों का संरक्षण अधिनियम, 2012 की धारा-4,6,7,9,11 और 14 के अधीन अपराध	
	(क) प्रवेशन लैंगिक हमला (धारा-4)	रु0-2,00,000/-
	(ख) गुरुत्तर प्रवेशन लैंगिक हमला (धारा-6)	रु0-2,00,000/-
	(ग) लैंगिक हमला (धारा-7)	रु0-1,00,000/-
	(घ) गुरुत्तर लैंगिक हमला (धारा-9)	रु0-1,50,000/-
	(ड.) लैंगिक उत्पीड़न (धारा-11)	रु0-1,00,000/-
	(च) अश्लील प्रयोजनों के लिये बालक का उपयोग (धारा-14)	रु0-1,00,000/-
<u>8</u>	जलने पर शरीर का 25% से अधिक का प्रभावित होना (तेजाब हमला के मामलों के अतिरिक्त)	रु0-2,00,000/-
<u>9</u>	यौन उत्पीड़न (बलात्कार के अतिरिक्त)	रु0-50,000/-
<u>10</u>	गर्भ की क्षति	रु0-50,000/-
<u>11</u>	गर्भ धारण क्षमता की क्षति	रु0-1,50,000/-
<u>12</u>	पूर्ण विकलांगता (80 प्रतिशत या अधिक)	रु0-2,00,000/-
<u>13</u>	आंशिक विकलांगता (40 प्रतिशत से 80 प्रतिशत)	रु0-1,00,000/-
<u>14</u>	कास बार्डर फाइरिंग से पीड़ित महिला-	रु0-2,00,000/-
	(अ) मृत्यु अथवा स्थायी विकलांगता (80 प्रतिशत या अधिक)	
	(ब) आंशिक विकलांगता (40 प्रतिशत से 80 प्रतिशत)	रु0-1,00,000/-

2. पीड़ित/पीड़िता के पास इस अधिसूचना दिनांक 07.06.2016 के अन्तर्गत आर्थिक सहायता पाने के लिये विभिन्न व्यवस्थाएं हैं, जैसे कि- ट्रॉयल कोर्ट/अपील कोर्ट द्वारा आर्थिक सहायता हेतु संबंधित प्रकरण में जिला विधिक सेवा प्राधिकरण (डी0एल0एस0ए0) को संदर्भित किया जाना अथवा पीड़ित/पीड़िता द्वारा जिला विधिक सेवा प्राधिकरण के पास जाना और स्वयं आवेदन करना।

यहां यह भी उल्लेख करना उचित होगा कि उपरोक्त श्रेणियों के प्रकरण जिलाधिकारी/पुलिस अधीक्षक के संज्ञान में आने पर पीड़ित/पीड़िता को जिला शासकीय अधिवक्ता(किमिनल)/ज्येष्ठ अभियोजन अधिकारी/अभियोजन अधिकारी के माध्यम से जिला विधिक सेवा प्राधिकरण के पास भेजकर आवेदन पत्र देने हेतु जो कार्यवाही की जानी है, वह आपके स्तर से ही अपेक्षित है।

जैसा कि आप अवगत ही हैं कि जिला विधिक सेवा प्राधिकरण (डी0एल0एस0ए0) के अध्यक्ष जिले के जिला जज होते हैं और सीनियर जुडीशियल मजिस्ट्रेट उसके सचिव होते हैं। यह योजना पीड़ित/पीड़िता को तत्काल आर्थिक सहायता पहुंचाने के उद्देश्य से बनाई गई है ताकि ट्रॉयल और फाइन्डिंग्स समयावधि से बाधित न हों।

3. उक्त अनुसूची में उल्लिखित अपराधों से पीड़ित/पीड़िता को आर्थिक सहायता दिये जाने हेतु रु0-2,00,00,000/- (रुपया दो करोड़) की व्यवस्था न्याय विभाग के बजट में की गयी है, जिसका संचालन राज्य विधिक सेवा प्राधिकरण द्वारा किया जा रहा है, जब किसी प्रकार का प्रकरण जिला विधिक सेवा प्राधिकरण द्वारा निर्णीत किया जायेगा, वह प्रक्रियानुसार राज्य विधिक सेवा प्राधिकरण से निर्णीत धनराशि प्राप्त कर पीड़ित/पीड़िता के खाते में स्थानान्तरित करेगा।

4. वास्तविक रूप से उ0प्र0पीड़ित क्षतिपूर्ति योजना-2014 के अध्यावधिक संशोधन/अधिसूचना दिनांक 07.06.2016 का उद्देश्य आम आदमी को तत्काल लाभ मिलने हेतु यह आवश्यक है कि संशोधित अधिसूचना का प्रचार-प्रसार आपके नेतृत्व में स्थानीय समाचार पत्रों में किया जाय एवं आपके अधीन जिले के प्रशासनिक/पुलिस/न्यायिक/प्रोबेशन अधिकारियों के साथ होने वाली बैठकों में भी योजना का व्यापक प्रचार प्रसार किया जाय।

5. जिले में अपराध समीक्षा बैठकों में इसकी रिपोर्ट प्रस्तुत की जाय कि जनपद में कुल कितने पीड़ितों द्वारा उपरोक्त अनुसूची के अन्तर्गत आर्थिक सहायता हेतु आवेदन किये हैं और कितने पीड़ितों को इसका लाभ प्राप्त हुआ है।

6. जिला जज के साथ होने वाली जिला स्तरीय मानीटरिंग बैठक में भी जिलाधिकारी/पुलिस अधीक्षक द्वारा उ0प्र0पीड़ित क्षतिपूर्ति योजना-2014 यथा संशोधन दिनांक 07 जून, 2016 के बारे में विस्तृत रूप से चर्चा की जायेगी और प्राप्त सूचनाओं को क्रास चेक किया जायेगा, ताकि किसी अन्य योजना में दोहरा लाभ न प्राप्त हो सके।

7. यह भी अवगत कराना है कि अनुसूची में उल्लिखित अपराधों से पीड़ित व्यक्तियों की आर्थिक सहायता हेतु प्रदेश में दो योजनायें संचालित हैं। महिला एवं बाल विकास विभाग की अधिसूचना दिनांक 06.02.2015 द्वारा जारी उत्तर प्रदेश रानी लक्ष्मीबाई महिला सम्मान कोष नियमावली-2015 एवं गृह विभाग की अधिसूचना दिनांक 09.04.2014 द्वारा जारी उ0प्र0पीड़ित क्षतिपूर्ति योजना-2014 है। (संशोधन 2016)

8. उपर्युक्त दोनों योजनाओं में अन्तर यह है कि उत्तर प्रदेश रानी लक्ष्मीबाई महिला सम्मान कोष नियमावली जारी होने की तिथि 06 फरवरी, 2015 से लागू है तथा इस योजना के अन्तर्गत केवल पीड़ित महिलाओं/लड़कियों को ही आर्थिक सहायता प्रदान की जाती है, जबकि उ0प्र0पीड़ित क्षतिपूर्ति योजना-2014 यथा संशोधन दिनांक 07 जून, 2016 पूर्वगामी तिथि से प्रभावी है तथा इस योजना के अन्तर्गत महिलाओं/बालिकाओं/बच्चों तथा पुरुषों को भी आर्थिक सहायता प्रदान किये जाने की व्यवस्था है। इस योजना के अन्तर्गत न्यायालय द्वारा पारित आदेश के अनुसार योजना लागू होने की तिथि से पूर्व की घटनाओं से पीड़ित व्यक्तियों को भी आर्थिक सहायता दिये जाने की व्यवस्था है। अतः आपके द्वारा पीड़ित/पीड़िता को लाभ दिये जाने के संबंध में सम्यक् परीक्षण करा लिया जाय कि उसे उपर्युक्त दोनों योजनाओं में से किस योजना के अन्तर्गत लाभ दिया जाना उचित होगा।

कृपया उपरोक्त योजनाओं में से उपयुक्त योजना के तहत पीड़ित/पीड़िता को तत्काल आर्थिक सहायता दिये जाने के संबंध में समयान्तर्गत कार्यवाही कराने का कष्ट करें।

संलग्न-उत्तर प्रदेश पीड़ित क्षतिपूर्ति योजना-2014

का संशोधन/अधिसूचना दिनांक 07 जून, 2016

(यह uphome.gov.in पर भी उपलब्ध हैं।)

भवदीय,

14.6.2016
(कमल सक्सेना)

सचिव।

संख्या एवं दिनांक तदैव।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. रजिस्ट्रार, मा0उच्च न्यायालय, इलाहाबाद/लखनऊ।
2. प्रमुख सचिव, न्याय विभाग, उत्तर प्रदेश शासन को इस अनुरोध के साथ कि वे कृपया अपने स्तर से समस्त जिला शासकीय अधिवक्ता(किमिनल) को सूचित करने का कष्ट करें।
3. प्रमुख सचिव, महिला कल्याण विभाग/समाज कल्याण विभाग/श्रम विभाग, उ0प्र0शासन।
4. सदस्य सचिव, राज्य विधिक सेवा प्राधिकरण, उत्तर प्रदेश, लखनऊ।
5. पुलिस महानिदेशक, उत्तर प्रदेश, लखनऊ।
6. महानिदेशक, अभियोजन, उ0प्र0, लखनऊ को इस अनुरोध के साथ प्रेषित कि वे कृपया अपने स्तर से समस्त जिलास्तरीय अभियोजन अधिकारी को सूचित करने का कष्ट करें।

आज्ञा से,

14.6.2016
(कमल सक्सेना)

सचिव।

UTTAR PRADESH SHASAN
Grih (Police) Anubhag- 9

The Governor is pleased to order the publication of the following English translation of notification no.-U.O.-26/VI-P-9-2016-G.I.204/2015-Police-15 dated: June 07, 2016.

NOTIFICATION

No.- U.O.-26/VI-P-9-2016-G.I.204/2015- Police-15
Lucknow: Dated: June 07, 2016.

In exercise of the powers under section 357-A of the Code of Criminal Procedure, 1973 (Act no 2 of 1974), read with section 21 of the General Clauses Act, 1897 (Act no. 10 of 1897) the Governor in co-ordination with the Central Government, is pleased to make the following amendment in Government notification no-653/VI-P-9-2014-31(90)/2010 dated April 09, 2014 regarding the Uttar Pradesh Victim Compensation Scheme, 2014 as amended by Government notification no-1986/VI-P-9-2015-31(90)/2010 dated July 10, 2015 :

AMENDMENT

In the aforesaid notification for Schedule-1, the following Schedule shall be substituted, namely:-

SCHEDULE

Sl. No.	Description of loss or injury	Previous Maximum Limit of Compensation	Amended Maximum Limit of Compensation
1.	Rape	Rs. 2,00,000/-	Rs.3,00,000/-
2.	Loss or injury causing severe mental agony to the victim of the crime (IPC Sections 325,326,333,394,429, 435 and 436)	Rs.1,00,000/-	Rs.1,00,000/-
3.	Victim of corrosive substance i.e. acid attack etc.	Rs.3,00,000/-	Rs.5,00,000/-
4.	Death (Non-earning member)	Rs.1,50,000/-	Rs.1,50,000/-
5.	Death (Earning member)	Rs.2,00,000/-	Rs.2,00,000/-
6.	Victim of Human Trafficking	Rs.2,00,000/-	Rs.2,00,000/-

7.	Offences under section 4,6,7, 9, 11 and 14 of the Protection of the Children from Sexual offences Act 2012:-		
	(a) penetrative sexual assault (section-4),	Rs-2,00,000/-	Rs.2,00,000/-
	(b) aggravated penetrative sexual assault (section -6),	Rs-2,00,000/-	Rs.2,00,000/-
	(c) sexual assault (section-7),	Rs-1,00,000/-	Rs.1,00,000/-
	(d) aggravated sexual assault (section- 9),	Rs-1,50,000/-	Rs.1,50,000/-
	(e) sexual harrasment (section-11),	Rs-1,00,000/-	Rs.1,00,000/-
	(f) using child for pornographic purpose (section-14),	Rs-1,00,000/-	Rs.1,00,000/-
8.	Burns affecting greater than 25% of the body (excluding acid attack cases)-	--	Rs.2,00,000/-
9.	Sexual assault (excluding rape)	--	Rs.50,000/-
10.	Loss of foetus	--	Rs.50,000/-
11.	Loss of fertility	--	Rs.1,50,000/-
12.	Permanent Disability (80% or more)	--	Rs.2,00,000/-
13.	Partial Disability (40% to 80%)	--	Rs.1,00,000/-
14.	Women victims of cross border firing:-	--	
	(a) death or permanent disability (80% or more)		Rs.2,00,000/-
	(b) partial disability (40% to 80%)	--	Rs.1,00,000/-

By Order

Mani Prasad Mishra
Sachiv.

अधिसूचना

साधारण खण्ड अधिनियम, 1897 (अधिनियम संख्या-10, सन् 1897) की धारा-21 के साथ पठित दण्ड प्रक्रिया संहिता, 1973 (अधिनियम संख्या-2, सन् 1974) की धारा 357-क के अधीन शक्ति का प्रयोग करके राज्यपाल अधिसूचना संख्या-1986/छ:- पु0-9-2015-31(90)/2010, दिनांक 10 जुलाई, 2015 द्वारा यथासंशोधित उत्तर प्रदेश पीड़ित क्षतिपूर्ति योजना, 2014 से संबंधित सरकारी अधिसूचना संख्या-653/छ:-पु0-9-2014-31(90)/2010, दिनांक 09 अप्रैल,2014 में निम्नलिखित संशोधन करते हैं:-

संशोधन

उपर्युक्त अधिसूचना में, अनुसूची-1 के स्थान पर निम्नलिखित अनुसूची रख दी जायेगी, अर्थात:-

अनुसूची

क्र० सं०	हानि या क्षति का विवरण	पूर्व में क्षतिपूर्ति की अधिकतम सीमा	संशोधित क्षतिपूर्ति की अधिकतम सीमा
1.	बलात्कार	रु० 2,00,000 / -	रु० 3,00,000 / -
2.	मानसिक संताप के कारण हुई हानि या क्षति (भा0द0सं० की धारा-325, 326, 333, 394, 429, 435 एवं 436)	रु० 1,00,000 / -	रु० 1,00,000 / -
3.	संक्षारक पदार्थ अर्थात् तेजाब आदि हमले से पीड़ित	रु० 3,00,000 / -	रु० 5,00,000 / -
4.	मृत्यु (गैर कमाने वाले सदस्य)	रु० 1,50,000 / -	रु० 1,50,000 / -
5.	मृत्यु (कमाने वाले सदस्य)	रु० 2,00,000 / -	रु० 2,00,000 / -
6.	मानव तस्करी से पीड़ित	रु० 2,00,000 / -	रु० 2,00,000 / -
7.	लैंगिक अपराधों से बालकों का संरक्षण अधिनियम, 2012 की धारा-4, 6, 7, 9, 11 और 14 के अधीन अपराध		
	(क)प्रवेशन लैंगिक हमला (धारा-4)	रु० 2,00,000 / -	रु० 2,00,000 / -
	(ख)गुरुत्तर प्रवेशन लैंगिक हमला (धारा-6)	रु० 2,00,000 / -	रु० 2,00,000 / -
	(ग)लैंगिक हमला (धारा-7)	रु० 1,00,000 / -	रु० 1,00,000 / -
	(घ)गुरुत्तर लैंगिक हमला (धारा-9)	रु० 1,50,000 / -	रु० 1,50,000 / -
	(ङ.)यौन उत्पीड़न (धारा-11)	रु० 1,00,000 / -	रु० 1,00,000 / -
	(च)अश्लील प्रयोजनों के लिए बालक का उपयोग (धारा-14)	रु० 1,00,000 / -	रु० 1,00,000 / -
8.	जलने से शरीर का 25% से अधिक का प्रभावित होना (तेजाब हमला के मामलों के	-	रु० 2,00,000 / -

	अतिरिक्त)		
9.	यौन उत्पीड़न (बलात्कार के अतिरिक्त)	—	रु0 50,000 /—
10.	गर्भ की क्षति	—	रु0 50,000 /—
11.	गर्भ धारण क्षमता की क्षति	—	रु0 1,50,000 /—
12..	पूर्ण विकलांगता (80 प्रतिशत या अधिक)	—	रु0 2,00,000 /—
13.	आंशिक विकलांगता (40 प्रतिशत से 80 प्रतिशत)	—	रु0 1,00,000 /—
14.	कास बार्डर फाइरिंग से पीड़ित महिला— (अ) मृत्यु अथवा स्थायी विकलांगता (80 प्रतिशत या अधिक)	—	रु0 2,00,000 /—
	(ब) आंशिक विकलांगता (40 प्रतिशत से 80 प्रतिशत)	—	रु0 1,00,000 /—

आज्ञा से

मणि प्रसाद मिश्र
सचिव।

उत्तर प्रदेश शासन

गृह (पुलिस) अनुभाग-9

संख्या-यू0ओ0-26/छ:-पु0-9-16-जीआई-204/15,पुलिस-15

लखनऊ: दिनांक: 07 जून,2016

उत्तर प्रदेश पीड़ित क्षतिपूर्ति योजना, 2014 में संशोधन की प्रति निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

- (1) रजिस्ट्रार, मा0 उच्च न्यायालय,इलाहाबाद/लखनऊ।
- (2) सदस्य सचिव, राज्य विधिक सेवा प्राधिकरण, उत्तर प्रदेश, लखनऊ।
- (3) समस्त प्रमुख सचिव/सचिव, उत्तर प्रदेश शासन।
- (4) समस्त मण्डलायुक्त, उत्तर प्रदेश।
- (5) समस्त जिला मजिस्ट्रेट, उत्तर प्रदेश।
- (6) पुलिस महानिदेशक, उत्तर प्रदेश, लखनऊ।
- (7) महानिदेशक अभियोजन, उत्तर प्रदेश, लखनऊ।
- (8) समस्त परिक्षेत्रीय पुलिस महानिरीक्षक/पुलिस उप महानिरीक्षक, उत्तर प्रदेश।
- (9) समस्त विभागाध्यक्ष, उत्तर प्रदेश।
- (10) समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक, उत्तर प्रदेश।
- (11) निदेशक, सूचना एवं जनसम्पर्क विभाग, उ0प्र0, लखनऊ को अधिसूचना की हिन्दी एवं अंग्रेजी प्रति जन साधारण के सूचनार्थ समाचार पत्रों में प्रकाशन हेतु।
- (12) निदेशक, एन0आई0सी0, योजना भवन, लखनऊ।
- (13) प्रभारी, गृह नियंत्रण कक्ष को गृह विभाग की वेबसाइट (uphome.gov.in) पर निर्गमन हेतु।
- (14) गार्ड फाइल।

आज्ञा से,

मणि प्रसाद मिश्र
सचिव।



सरकारी गजट, उत्तर प्रदेश

उत्तर प्रदेशीय सरकार द्वारा प्रकाशित

असाधारण

विधायी परिशिष्ट

भाग—4, खण्ड (ख)

(परिनियत आदेश)

लखनऊ, बुधवार, 9 अप्रैल, 2014

चैत्र 19, 1936 शक सम्वत्

उत्तर प्रदेश शासन

गृह (पुलिस) अनुभाग-9

संख्या 653/छ-पु०-9-14-31(90)-2010

लखनऊ, 9 अप्रैल, 2014

अधिसूचना

403110-119

दण्ड प्रक्रिया संहिता, 1973 (अधिनियम संख्या 2 सन् 1974) की धारा 357-क द्वारा प्रदत्त शक्ति का प्रयोग करके उत्तर प्रदेश के राज्यपाल केन्द्र सरकार से समन्वय करके एतद्वारा ऐसे पीड़ितों या उनके आश्रितों, जिन्हें अपराध के कारण हानि या क्षति हुई है और पुनर्वास की आवश्यकता है, को क्षतिपूर्ति देने के प्रयोजनार्थ निधि उपलब्ध कराने के लिए निम्नलिखित योजना बनाते हैं अर्थात्—

उत्तर प्रदेश पीड़ित क्षतिपूर्ति योजना

1—यह योजना उत्तर प्रदेश पीड़ित क्षतिपूर्ति योजना, 2014 कही जायेगी।

2—जब तक सन्दर्भ से अन्यथा अपेक्षित न हो, इस योजना में—

(क) "अधिनियम" का तात्पर्य दंड प्रक्रिया संहिता, 1973 (अधिनियम संख्या-2 सन् 1974) से है;

(ख) "अनुसूची" का तात्पर्य इस योजना से संलग्न अनुसूची से है;

(ग) "राज्य" का तात्पर्य उत्तर प्रदेश राज्य से है;

(घ) "पीड़ित व्यक्ति" का तात्पर्य ऐसे व्यक्ति से है, जो कि अपराध के परिणामस्वरूप क्षति या हानि से पीड़ित हो और पुनर्वास की आवश्यकता हो और इसमें पीड़ित के परिवारिक सदस्य भी सम्मिलित हैं;

(ङ) "जिला विधिक सेवा अधिकरण" का तात्पर्य विधिक सेवा प्राधिकरण अधिनियम, 1987 की धारा 9 के अधीन गठित जिला प्राधिकरण से है;

(च) "राज्य विधिक सेवा प्राधिकरण" का तात्पर्य विधिक सेवा प्राधिकरण अधिनियम, 1987 की धारा 6 के अधीन गठित राज्य प्राधिकरण से है;

संक्षिप्त नाम,
परिभाषाएँ

पीड़ित क्षतिपूर्ति
निधि

3-(1) "पीड़ित क्षतिपूर्ति निधि" के नाम से निधि गठित की जायेगी जिससे ऐसे पीड़ितों या उनके आश्रितों, जिन्हें अपराध के कारण क्षति या हानि हुई है और पुनर्वास की आवश्यकता है, को क्षतिपूर्ति की धनराशि का भुगतान किया जायेगा।

(2) राज्य सरकार प्रत्येक वर्ष इस योजना के प्रयोजनार्थ पृथक रूप से बजट आवंटित करेगी।

(3) निधि का संचालन सचिव, राज्य विधिक सेवा अधिकरण द्वारा किया जायेगा।

4-पीड़ित क्षतिपूर्ति के लिए पात्र होगा यदि:-

(क) अपराधी का पता नहीं चलता है या उसकी शिनाख्त नहीं की जाती है, किन्तु पीड़ित की शिनाख्त हो जाती है, और जहां कोई विचारण नहीं होता है, वहाँ ऐसे पीड़ित या उसके आश्रित अधिनियम की धारा 357-क की उपधारा (4) के अधीन क्षतिपूर्ति की स्वीकृति के लिए आवेदन कर सकते हैं;

(ख) पीड़ित/दावेदार ने घटना से 48 घण्टे के भीतर पुलिस स्टेशन के अधिकारी या प्रभारी, क्षेत्र के किसी वरिष्ठ पुलिस अधिकारी या कार्यकारी मजिस्ट्रेट या न्यायिक मजिस्ट्रेट को अपराध की रिपोर्ट की हो, परन्तु यह कि यदि जिला विधिक सेवा प्राधिकरण ऐसे कारणों से जो अभिलिखित किए जायेंगे, संतुष्ट हो जाता है तो रिपोर्ट करने में हुए विलम्ब को माफ कर सकता है;

(ग) पीड़ित/दावेदार ने मामले के अन्वेषण और विचारण के दौरान पुलिस तथा अभियोजन पक्ष को सहयोग दिया है।

क्षतिपूर्ति देने के
लिए प्रक्रिया

5-(1) जब कभी न्यायालय द्वारा अधिनियम की धारा 357-क की उपधारा (2) के अधीन संस्तुति की जाती है या कोई आवेदन किसी पीड़ित या उसके आश्रित द्वारा अधीन जिला विधिक सेवा प्राधिकरण को किया जाता है तो जिला विधिक सेवा प्राधिकरण मामलों की जाँच करेगा और रिपोर्ट की गयी अपराधिक गतिविधि में पीड़ित को हुई हानि या क्षति के सम्बन्ध में दावे के विषय वस्तु को सत्यापित करेगा। दावे की वास्तविकता निर्धारित करने के लिए कोई अन्य आवश्यक सुसंगत सूचना मांग सकता है। दावों का सत्यापन करने और सम्यक् जाँच के उपरान्त जिला विधिक सेवा प्राधिकरण इस योजना के प्राविधानों के अनुसार अधिनियम की धारा 357-क की उपधारा (4) के अधीन न्यायालय की संस्वीकृति की प्राप्ति या आवेदन-पत्र की प्राप्ति के दिनांक से दो मास के भीतर क्षतिपूर्ति प्रदान करेगा।

(2) इस योजना के अधीन क्षतिपूर्ति इस शर्त के अधीन भुगतान की जायेगी कि यदि विचारण न्यायालय पश्चातवर्ती तिथि को निर्णय देते समय दोषी व्यक्तियों को अधिनियम की धारा 357 की उपधारा (3) के अधीन क्षतिपूर्ति की राशि के रूप में किसी राशि का भुगतान करने के लिए आदेश देता है, तो पीड़ित या दावेदार क्षतिपूर्ति की धनराशि के बराबर आदेशित धनराशि या उपधारा 3 के अधीन दी जाने वाली आदेशित धनराशि जो भी कम हो, विप्रेषित करेगा। पीड़ित व्यक्ति/दावेदार से इस आशय की, अण्डरटैकिंग निधि से धनराशि वितरित करने से पूर्व प्राप्त की जायेगी।

(3) जिला विधिक सेवा प्राधिकरण पीड़ित को हुई क्षति के आधार पर पीड़ित या उसके आश्रित को दी जाने वाली क्षतिपूर्ति की मात्रा, उपचार पर उपगत होने वाले चिकित्सा व्यय, अंत्येष्टि व्यय इत्यादि के रूप में ऐसे आकस्मिक प्रभार सहित पुनर्वास के लिए अपेक्षित न्यूनतम आजीविका राशि का निर्णय करेगा। प्रत्येक प्रकरण में तथ्यों के आधार पर प्रकरणवार प्रत्येक पीड़ित के लिए क्षतिपूर्ति भिन्न-भिन्न हो सकती है।

(4) क्षतिपय मामलों में अपराध की अतिसंवेदनशीलता एवं पीड़ित व्यक्ति की विशेष आवश्यकता को दृष्टिगत रखते हुए विशेष मामलों में जिला विधिक सेवा अधिकरण या राज्य विधिक सेवा अधिकरण, जैसी भी स्थिति हो, को अधिकार होगा कि रुपये 25 हजार तक, अधिकतम 1.00 लाख की सहायता उपलब्ध करा सकते हैं जैसे-

(क) जहां पीड़ित, नाबालिग लड़की हो और विशिष्ट उपचार व देखभाल की आवश्यकता हो।

(ख) जहां पीड़ित, मानसिक रूप से आहत हो और विशिष्ट उपचार व देखभाल की आवश्यकता हो।

(ग) किसी अन्य मामले में, जैसा संबंधित विधिक सेवा अधिकरण उचित समझे।

(5) पीड़ित या उसके आश्रितों को दिये जाने वाली क्षतिपूर्ति की मात्रा अनुसूची एक में वर्णित सीमा से अधिक नहीं होगी।

(6) इस योजना के अधीन निर्णीत क्षतिपूर्ति की राशि पीड़ित या उसके आश्रितों, जैसी स्थिति हो, को निधि से वितरित की जायेगी। अन्तरिम या अन्तिम वित्तीय सहायता जैसे भी स्थिति हो, का भुगतान आवेदक के बैंक खाते में अधिमानतः एक सप्ताह के अन्दर की जायेगी। यदि पीड़ित व्यक्ति नाबालिग है तो धनराशि का भुगतान पीड़ित के माता-पिता या अभिभावक के खाते में क्षतिपूर्ति की धनराशि समुचित के सदुपयोग के बारे में संतुष्ट हो जाने पर संबंधित अधिकरण द्वारा की जायेगी।

(7) पीड़ित द्वारा प्रश्नगत अपराध के सम्बन्ध में केन्द्र एवं राज्य से प्राप्त क्षतिपूर्ति अर्थात् सीमा अनुग्रह, किसी अन्य अधिनियम में प्राप्त या केन्द्र एवं राज्य द्वारा चलायी जा रही किसी अन्य योजना के अधीन प्राप्त भुगतान भी इस योजना के अधीन क्षतिपूर्ति राशि के भाग के रूप में मानी जायेगी। यदि क्षतिपूर्ति की राशि पीड़ित द्वारा उपरोक्त वर्णित स्रोतों से प्राप्त भुगतान से अधिक है तो शेष राशि का भुगतान निधि से किया जायेगा।

(8) मोटर वेहिकल ऐक्ट, 1988 (अधिनियम संख्या 59 सन् 1988) से आच्छादित मामले, जिनमें मोटर एक्सीडेंट क्लेम्स ट्रिब्यूनल द्वारा क्षतिपूर्ति प्रदान करने के आदेश दिये गये हैं, इस योजना से आच्छादित नहीं होंगे।

(9) राज्य या जिला विधिक सेवा प्राधिकरण, यथास्थिति, पीड़ित की पीड़ा कम करने के लिये तुरन्त ही प्राथमिक चिकित्सा अथवा चिकित्सीय लाभ के लिये आदेश कर सकेगा जो पुलिस थाने के भार साधक अधिकारी से अनिम्न श्रेणी के पुलिस अधिकारी या सम्बन्धित क्षेत्र के मजिस्ट्रेट के प्रमाणपत्र पर मुफ्त उपलब्ध कराये जायेंगे। जिला विधिक सेवा प्राधिकरण अन्य ऐसे अन्तरिम अनुतोष दिये जाने के लिए ऐसे आदेश दे सकेंगे, जैसा समुचित प्राधिकारी उचित समझे।

6-क्षतिपूर्ति व पुनर्वास सेवायें प्रदान करने का निर्धारण करते समय पीड़ित की गूलभूत पुनर्वास आवश्यकताओं को ध्यान में रखते हुए अधिकरण निम्नलिखित तथ्यों द्वारा निर्देशित होगा:-

पीड़ित व्यक्ति को सहायता के निर्धारण करने हेतु निर्देशक सिद्धान्त

(क) पीड़ित व्यक्ति को आई चोटें, घाव के प्रकार व गम्भीरता तथा उसे होने वाले चिकित्सीय एवं मानसिक उपचार पर होने वाले व्यय।

(ख) पीड़ित की उम्र व आर्थिक स्थिति के कम में उसकी शैक्षिक व्यावसायिक प्रशिक्षण की आवश्यकताओं, जैसे भी स्थित हो।

(ग) पीड़ित को जहां गैर आर्थिक नुकसान, मानसिक या भावनात्मक आघात या अपमान का सामना करना पड़ा हो।

(घ) किसी वैकल्पिक आवास के प्राविधान करने के संबंध में होने वाला व्यय जहाँ पीड़ित अपराध घटित होने और प्राथमिकी दर्ज होने या अपराधिक वाद प्रारम्भ होने से भिन्न स्थान पर रहता हो।

7-इस योजना के अधीन पारित क्षतिपूर्ति आदेश की प्रति को विचारण न्यायालय के अभिलेख पर लाना आवश्यक होगा ताकि न्यायालय अधिनियम की धारा 357 की उपधारा (3) के अधीन क्षतिपूर्ति का आदेश पारित कर सके।

अभिलेख पर रखे जाने वाले आदेश परिसीमा

8-अधिनियम की धारा 357-क की उपधारा (4) के अधीन पीड़ित या उसके आश्रित द्वारा अपराध की एक वर्ष की अवधि के बाद किये गये किसी भी दावे पर विचार नहीं किया जायेगा।

परिसीमा

परन्तु, यह कि यदि जिला विधिक सेवा प्राधिकरण अभिलिखित कारणों से सन्तुष्ट हो जाता है तो वह दावा दायर करने में हुए विलम्ब को माफ कर सकता है।

अपील

9-जिला विधिक सेवा प्राधिकरण द्वारा क्षतिपूर्ति से इन्कार करने से व्यथित व्यक्ति 90 दिन के अन्दर राज्य विधिक सेवा प्राधिकरण के समक्ष अपील दायर कर सकता है।

परन्तु यह कि यदि राज्य विधिक सेवा प्राधिकरण का ऐसे कारणों से, जो लिखित रूप में अभिलिखित किये जायेंगे, अपील दायर करने में हुए विलम्ब को माफ कर सकता है।

एस0के0 रघुवंशी,
सचिव।

अनुसूची-1

क्र0सं0	हानि या क्षति का विवरण	क्षतिपूर्ति की अधिकतम सीमा
1	बलात्कार	रु0 2,00,000 /--
2	मानसिक संताप के कारण हुई हानि या क्षति	रु0 1,00,000 /--
3	संक्षारक पदार्थ अर्थात् तेजाब आदि हमले से पीड़ित	रु0 3,00,000 /--
4	मृत्यु (गैर कमाने वाले सदस्य)	रु0 1,50,000 /--
5	मृत्यु (कमाने वाले सदस्य)	रु0 2,00,000 /--
6	मानव तस्करी से पीड़ित	रु0 2,00,000 /--

आज्ञा से,
एस0के0 रघुवंशी,
सचिव।

The Governor is pleased to order the publication of the following English translation of notification No.-653/VI-P-9-2014-31(90)/2010 Dated April 9, 2014.

No.-653/VI-P-9-2014-31(90)/2010.

Lucknow, Dated April 09, 2014

In exercise of the powers conferred by section 357-A of the Code of Criminal Procedure, 1973 (Act 2 of 1974), the Governor of Uttar Pradesh, in co-ordination with the Central Government, hereby frames the following scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation, namely :

THE UTTAR PRADESH VICTIM COMPENSATION SCHEME

Short title

1. This Scheme may be called the Uttar Pradesh Victim Compensation Scheme, 2014

Definitions

2. In this Scheme, unless the context otherwise requires,

(a) "Act" means the Code of Criminal Procedure, 1973 (Act No-2 of 1974);

(b) "Schedule" means the Schedule appended to this Scheme;

(c) "State" means the State of Uttar Pradesh;

(d) "Victim" means a person who himself has suffered loss or injury as a result of the crime and requires rehabilitation, and includes his dependent family members;

(e) "District Legal Services Authority" means the District Authority constituted under Section 9 of the Legal Services Authorities Act, 1987.

(f) "State Legal Services Authority" means the State Authority constituted under section 6 of the Legal Services Authorities Act, 1987.

3. (1) There shall be established a fund namely Victim Compensation Fund from which amount of compensation under this Scheme shall be paid to the victim or his dependents who have suffered loss or injury as result of the crime and who require rehabilitation.

Victim
Compensation
Fund

(2) The State Government shall allot a separate budget for the purpose of the Scheme every year.

(3) The Fund shall be operated by the Secretary, State Legal Services Authority.

4. A victim shall be eligible for the grant of compensation if :

Eligibility for
compensation

(a) the offender is not traced or identified, but the victim is identified and where no trial takes place; such victim may also apply for grant of compensation under sub section (4) of section 357-A of the Act;

(b) the victim/claimant reports the crime to the officer-in-charge of the police station within 48 hours of the occurrence or any senior police officer or Executive Magistrate or Judicial Magistrate of the area provided that the District Legal Services Authority, if satisfied for the reasons to be recorded in writing, may condone the delay in reporting;

(c) the victim/claimant cooperates with the police and the prosecution during the investigation and trial of the case.

5. (1) Whenever a recommendation is made by the Court or an application is made by any victim or his dependent under sub section (2) of section 357-A of the Act to the District Legal Services Authority, the District Legal Services Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to the victim and arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness of the claim. After verifying the claim, the District Legal Services Authority shall, after due enquiry, award compensation within two months from the date of receipt of the recommendation of the court of the receipt of application under sub-section (4) of section 357-A of the Act in accordance with the provisions of this Scheme.

Procedure for
grant of
compensation

(2) Compensation under this Scheme shall be paid subject to the condition that if the trial court, while passing judgment at later date, orders the accused persons to pay any amount by way of compensation under sub-section (3) of section 357 of the Act, the victim/claimant shall remit an amount ordered equal to the amount of compensation or the amount ordered to be paid under the said sub-section (3) whichever is less. An undertaking to this effect shall be given by the victim/ claimant before the distribution of the compensation amount.

(3) The District Legal Services Authority shall decide the quantum of compensation to be awarded to the victim or his dependents on the basis of loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses etc. The compensation may vary from case to case depending on the facts of each case.

(4) Keeping in view the particular vulnerabilities and special needs of the affected person in certain cases, the District Legal Services Authority or the State Legal Services Authority, as the case may be, will have the power to provide additional assistance of Rs. 25,000/- subject to maximum of Rs. 1,00,000/-, in the cases where:

(a) The affected person is a minor girl requiring specialized treatment and care:

(b) The person is mentally challenged requiring specialized treatment and care;

(c) Any other case as may be deemed fit by the Legal Services Authority concerned.

(5) The quantum of compensation to be awarded to the victim or his dependents shall not exceed the maximum limit as per Schedule-I.

(6) The amount of compensation decided under the Scheme shall be disbursed to the victim or his dependents, as the case may be, from the Fund. The interim or final financial assistance, as the case may be, shall be remitted to the bank account of the applicant preferably within a week. In cases where the person affected is a minor, the amount shall be remitted to the bank account of his parent or guardian after the Authority concerned is satisfied about the proper utilization of the amount of compensation.

(7) Compensation received by the victim from the State in relation to the crime in question, namely, insurance, *ex-gratia* and/or payment received under any other Act or State-run Scheme, shall be considered as part of the compensation amount under this Scheme and if the due compensation amount exceeds the payments received by the victim from collateral sources mentioned above, the balance amount shall be paid out of the Fund.

(8) The cases covered under the Motor Vehicles Act, 1988 (Act no. 59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal, shall not be covered under this Scheme.

(9) The District Legal Services Authority, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer-in-charge of the police station or the Magistrate of the area concerned. The district Legal Services Authority may order for any other interim relief as it may deem fit.

Principles governing the determination of assistance to the affected person

6. While determining the compensation and rehabilitation services to be provided on the basis of the restorative needs of the affected person, the Authority shall be guided by the following factors:

(a) Type and severity of the bodily injury suffered by the affected person and expenditure incurred or likely to be incurred on victim's medical treatment and psychological counseling.

(b) Age and financial condition of the affected person so as to determine the need for his education or professional or vocational training, as the case may be.

(c) Non-pecuniary loss entailing suffering, mental or emotional trauma or humiliation faced.

(d) Expenses incurred in connection with provision of any alternate accommodation in cases where the affected person resides in a place other than where the offence was committed and the FIR has been recorded and/or criminal trial initiated.

Order to be placed on record

7. Copy of the order of compensation passed under this Scheme shall be mandatorily placed on record of the trial court to enable the court to pass order of compensation under sub-section (3) of section 357 of the Act.

Limitation

8. No claim made by the victim or his dependents under sub-section (4) of section 357-A of the Act shall be entertained after a period of six months of the crime:

Provided that the District Legal Services Authority, if satisfied for the reasons to be recorded in writing, may condone the delay in filing any claim.

9. Any victim aggrieved of the denial of compensation by the District Legal Services Authority may file an appeal before the State Legal Services Authority within a period of ninety days : Appeal

Provided that the State Legal Services Authority, if satisfied for the reasons to be recorded in writing, may condone the delay in filing the appeal.

S.K. RAGHUVANSHI,
Sachiv.

Schedule - 1

	Particulars of loss or injury	Maximum limit of compensation
1	Rape	Rs. 2,00,000/-
2	Loss or injury causing severe mental agony to the victim of the crime	Rs. 1,00,000/-
3	Victim of corrosive substance i.e. acid attack etc.	Rs. 3,00,000/-
4	Death (Non-earning member)	Rs. 1,50,000/-
5	Death (Earning member)	Rs. 2,00,000/-
6	Victim of Human Trafficking	Rs. 2,00,000/-

By order,
S.K. RAGHUVANSHI,
Sachiv.